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ABSTRACT

Impact of the Alaskan Native Claims Settlement Act (ANCSA) on Alaskan Natives, particularly at village levels, is the focus of a joint task force report on Alaskan Native issues. Prepared for the American Indian Policy Review Commission, the report is the work of representatives from task forces on tribal government, federal, state, and tribal jurisdiction, and reservation development and resource protection. Report findings include: Department of Interior has not been sufficiently effective in implementing ANCSA; long-term ability of native corporations for economic success is undercut by delay in land transfers and impact of inflation; Natives' long-term ability to control their land and corporation will be undercut by 1991 removal of exemption against taxation and against alienability of Native-held ANCSA corporation stock; Native village status is complicated by application of concepts with little relevance to Alaska. Recommendations deal with completion of interim conveyances by 1981; repeal of the ANCSA easement provision; amending ANCSA so that 20-year taxation exemption runs from conveyance of fee simple title to all ANCSA lands and so that all undeveloped lands remain permanently tax exempt; establishment of Special Congressional Commission to determine if ANCSA assures viability of Alaska Native communities; amendment of PL 638 as regards self-determination grants in Alaska. (RS)

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[COMMITTEE PRINT]

AMERICAN INDIAN POLICY REVIEW COMMISSION

SPECIAL JOINT TASK FORCE REPORT ON ALASKAN NATIVE ISSUES

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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JULY 1976

AMERICAN INDIAN POLICY REVIEW COMMISSION
CONGRESS OF THE UNITED STATES

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LETTER OF TRANSMITTAL

American Indian Policy Review Commission,
Congress of the United States,
Washington, D.C.

Mr. Ernest Stevens,
Director, American Indian Policy Review Commission, Congress of the United States, Washington, D.C.

Dear Mr. Stevens: We hereby transmit to you a special joint task force report on Alaskan Native issues.

This report is the result of an extended on-site visit to Alaska and extensive literature research, conducted by representatives of the Task Force on Tribal Government (TF No. 2); the Task Force on Federal, State, and Tribal Jurisdiction (TF No. 4); and the Task Force on Reservation Development and Resource Protection (TF No. 7). Included in an appendix is a report of the Alaskan Native Foundation Commission, prepared as part of our joint efforts.

The major focus of the report is on the impact that the Alaskan Native Claims Settlement Act has had on Alaskan Natives, particularly at the village level. Unfortunatley, as the act is currently being administered by the Department of the Interior, Alaskan Natives are a long way from having their land and achieving economic security. Even if all impediments, created by the Department of the Interior, were ot be removed, there is serious question as to whether natives will be able, over the long run, to control their own destinies.

It is our hope that the American Indian Policy Review Commission will expand on this report, and strongly and affirmatively address the problem of Alaskan Natives in its report to Congress.

Judge William Roy Rhodes,
Member, Task Force No. 4.
Dr. Lorraine Ruffing,
Specialist, Task Force No. 7.
Paul Alexander,
Special Counsel, Task Force No. 4.
Michael Cox,
Specialist, Task Force No. 2.

CONTENTS

Page
Letter of transmittal
Chapter I. Historical Summary 1
Chapter II. The Alaskan Native Claims Act 8
Chapter III. Issues Directly Related to ANCSA 13
Chapter IV. Alaskan Native Villages 21
Chapter V. Findings and Recommendations 25
Appendix A. Long-term Projects for Native Ownership and Control of Lands Conveyed Under the Alaska Native Claims Act (Alaska Native Foundation) 27
Appendix B. Interview Reports of Alaskan Field Visit 37

5

page iv blank.

CHAPTER I. HISTORICAL SUMMARY UP TO THE ALASKAN NATIVE CLAIMS SETTLEMENT ACT

In 1867, the United States acquired title to Alaska from Russia through the Treaty of Cession.[1] Article III of that treaty deals with the rights of the people living in Alaska, some of whom were Russian citizens:

> The inhabitants of the ceded territory according to their choice, reserving their natural allegiance, may return to Russia within 3 years; but if they should prefer to remain in the ceded territory, they, with the exception of the uncivilized tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country.

At the same time Alaska was purchased by the United States, the Federal Government was rounding up remnants of Indian tribes in the contiguous United States and confining them to reservations.

In 1871, 4 years after the purchase of Alaska, Congress forbid any further treaties between the Federal Government and Indian tribes, thus depriving the Alaskan Natives of the early opportunity to settle their land claims.

The Organic Act of 1884 raised Alaska's status a notch from a customs district to a land district. Among other things, it extended the U.S. mining laws, principally the Mineral Location Act of 1872, to Alaska, which became important a few years later when gold was discovered near Juneau.

The Organic Act of 1884 noted the unusual legal position of the Alaskan Natives by providing—

> That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire the title to such lands is reserved for future legislation by Congress.

This language later became the legal basis for a legislative settlement of Alaskan Natives claims rather than a judicial one.

The legislators who drafted the Organic Act knew very little about either Alaska or the predominantly Native population of the area. Congress established a special Commission to report—

> . . . upon the conditions of the Indians residing in said territory: what lands, if any, should be reserved for their use; what provisions shall be made for their education; what rights by occupation of settlers should be recognized.

The following year, the Commission recommended that the general land laws of the United States be extended to Alaska. It also recommended that, as the Natives claimed "only the land on which their homes are built, and some garden patches near their villages," bonafide settlers should be encouraged to come to Alaska to "open and develop its resources." Accordingly, Congress began to extend other land laws to Alaska. Among these were the homesteading laws which were to prove inoperable there, as almost none of Alaska had been surveyed. Furthermore, homesteading was designed for farming and most of Alaska was not suitable for farming. Because they were not citizens, Natives could not acquire title to land under the homesteading laws.

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[1] Some native people maintain that Russia never owned Alaska, hence the United States could not purchase.

In the 1880's and the 1890's, in spite of unworkable land laws, the white settlers began to exploit Alaska's natural resources. The Alaska Commercial Co. was well established in western Alaska, and soon the salmon canning industry spread westward along the coast of Alaska. From the 1880's on, gold and copper became the mainstays of the Alaskan economy. Although there were deposits elsewhere in Alaska, the center of gold production was Fairbanks. The center of copper production was the Copper River Valley where the Kennecott Mines were located.

Throughout this period of exploitation, few whites paid much attention to the Alaskan Natives. Although Natives were the majority of Alaska's population, officially they scarcely existed. In contrast to the general thrust of U.S. Indian policy (assimilationist at that time), there was no governmental interest in the Alaskan Native. For example, in 1887, Congress passed the Indian Allotment Act; however, the new law did not apply in Alaska.

Meanwhile, southeastern Alaska was becoming settled, and as non-Natives increasingly encroached upon traditional Native hunting and fishing grounds, the Tlingit and Haida Indians protested. They wrote to the Secretary of the Interior, but his response was not helpful:

> I have to inform you that these matters all lie outside the control of this Department and would be proper subjects for consideration of Congress.

The southeastern Indians then asked for reservation status, but since reservations were out of fashion, their request was ignored.

Various persons, including a commissioner of the Alaskan Land Office, urged that public land laws be extended to the Alaskan Natives, but no one listened to them, until the Supreme Court ruled in a 1905 Alaskan case, *Berrigan* v. *United States*, that the United States had an obligation to protect the property rights of its Indian wards. The following year, Congress passed the Alaskan equivalent of the Indian Allotment Act. This law allowed Eskimos and Indians (but not Aleuts) to apply for 160-acre homesteads on nonmineral land chosen from vacant and unappropriated parts of the public domain, that is from unreserved Federal lands. Homesteading, however, was no more practical for Natives than for whites. Fifty-four years later, only 80 allotments had been issued, and most of those in the southeast.

In the 1900's, when the conservation movement began, President Theodore Roosevelt's Chief Forester, Gifford Pinchot, created the first of the national forests in Alaska. From the turn of the century on, the Federal Government removed millions of acres in Alaska from the public domain for conservation purposes: national forests, national parks, wildlife refuges, petroleum reserves. The first major withdrawal in Alaska was the 16-million-acre Tongass National Forest in the southeast which was created in 1902 and enlarged 7 years later. In withdrawing the land for the forest, the Federal Government paid little attention to existing settlements—Native or nonNative. Much later, the U.S. Court of Claims would rule that the United States owed the Tlingit and Haida Indians $7.5 million for lands taken from them without compensation when this national forest was set aside.

In 1906, Alaskan coal fields were withdrawn from entry so that no coal could be mined. In 1907, more than 4½ million acres around Prince William's Sound in southcentral Alaska were set aside for the Chugach National Forest. The following year, Congress passed the Picket Act authorizing the President to make withdrawals by Executive order without congressional approval. Although the Picket Act applied to the entire United States, it was a particularly controversial issue in Alaska. In 1916, the first Alaskan national park, Mount McKinley, was set aside, and a few years later, a vast national monument was created at Katmai. The next large withdrawal from the public domain came in 1923 when President Harding created the 23-million acre Naval Petroleum Reserve No. 4 in the Arctic.

In 1912 Alaska became a territory. Although no one was certain whether territorial legislature had the authority, one of its earliest acts was to enfranchise natives. It was not until 1924, when Congress declared all noncitizen Indians born within the territorial limits of the United States to be citizens, that Alaskan Natives acquired citizenship.

In 1943 Secretary of the Interior Ickes announced the creation of several native reservations in Alaska pending approval by 30 percent of the native residents. One was the 1.4-million-acre Venetie Reservation in the northeastern corner of the territory established by two villages on the Chandalar River, a tributary of the Yukon. The Secretary's action greatly alarmed nonnative Alaskans who feared that up to half of the territory would be closed to them by the creation of reservations. Many whites thought that the Interior Department had pressured the natives into voting to create reservations. In fact, a court later found that a reservation at Hydaburg in the southeast had been so improperly created. The nonnative fears were largely unjustified, however, for only six IRA reservations were created. Four others were proposed, but were voted down by the native residents and the Hydaburg one was eventually disbanded. The BIA later proposed another 11 reservations in northwest Alaska, which would have set aside 2.2-million acres for the use of approximately 2,000 people, but the natives there never had an opportunity to vote on them. Eleven villages petitioned the BIA for reservations, but it took no action on the petitions. In the 1950's, about 90 villages asked to have reservations created, but by then, termination was the official Indian policy, and reservations were again out of style.

As referred to previously, in 1935 the Tlingits and Haidas had persuaded Congress to allow them to seek compensation from the court of claims for lands taken from them when the Tongass Forest was formed. In 1946, Congress had created the Indian Claims Commission and thus had given Indians who were unable to sue in the court of claims a forum for redress of grievances; however, few natives were cognizant of the Claims Commission before 1951, the deadline for filing claims.

During the push for statehood for Alaska, proponents were generally aware of the native land claims, but believed that the claims were a Federal problem to be resolved separately and that statehood should not be held up until the natives' land claims were settled.

In most western States, the advent of statehood meant a land grant from Congress of two sections from the public domain (or 1,280 acres) for each township for the support of public schools. Under this general practice, Alaska would have received about 21 million acres of public domain lands to administer for revenue purposes. Instead, Alaska received 102 million acres, roughly one-third of the total acreage of the State. This grant was more than the total land grant to all other western States combined. Members of the House and Senate Interior Committees who drafted the statehood bill abandoned the precedent of numbered sections for several reasons. First, since Alaska was unsurveyed for the most part, there were few townships. To survey the territory before statehood was out of the question because it would take so long. Secondly, in Alaska where the land is of varying value, in place grants could have resulted in the State's receiving lands with little foreseeable economic value. Finally, from a land management point of view, having small tracts of State land isolated from one another is unwieldy. Instead, Alaska could choose its revenue land in reasonable compact tracts from any place in the public domain.

Statehood gave the State government the right to choose the following amounts of land (some within 10 years, others within 25): 102,350,000 acres from the unappropriated public domain for general purposes; 400,000 acres from the national forest in southeastern Alaska for community expansion; and 400,000 acres from the public domain for the same purpose. Also confined were earlier grants of Federal land to Alaska of approximately 1.1 million acres.

To insure that Alaska would be economically viable, Congress departed even further from precedent. Before 1927, no State was allowed to select so-called "mineral lands" for example, land where the primary use would be mineral extractions. After 1927, States which had not completed their land selections could take mineral lands, but the mineral rights transfered were inalienable, that is, the minerals could be leased, but not sold. Alaska was to be the chief beneficiary of this 1927 legislation. In addition, Alaska was given a larger share of the revenues from mineral leases on public domain lands within its boundaries than was any other State.[2] Since Alaska is not a reclamation State, Congress provided that it should receive the full 90 percent of mineral revenues including all receipts from rents, royalties and bonuses on leases on Federal land. Alaska is the only State in the Union which has this large and continuous source of revenue from Federal lands.

In 1958, when Congress approved statehood, there were 92.4 million acres of land in Alaska in Federal reserves of one sort of another: 20 million acres of national forest; a 23-million-acre naval petroleum reserve; more than 27 million acres in power reserves (including a second Arctic petroleum reserve): 7.8 million acres of wildlife refuges; and 6.9 million acres of national parks and monuments. The Federal Government was trustee for more than 4 million acres of Indian reservations. The public domain consisted of 271.8 million acres from which the new State was to get nearly 103 million. Only 700,000 acres had been patented to private individuals. There were unperfected entries on another 600,000. Thus Congress had kept roughly one-fourth of Alaska as Federal land.

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[2] Other Western States received 37.5 percent of these revenues directly. Ten percent goes to the Federal Government: the rest, 52.5 percent, is paid into the Federal reclamation fund for irrigation and land reclamation projects.

Although proponents of statehood said that settlement of the Native claims was a Federal problem and not an Alaskan one, the Natives themselves were largely silent. Most of the village people were unaware of the way in which statehood might affect them. At that time, there was only one statewide Native organization—the Alaska Native Brotherhood and Sisterhood. The main concern of informed Natives and of national Indian organizations was that Congress not extinguish the claims when it created the State of Alaska. The Organic Act of 1884 had reserved determination on the claims "for future legislation of Congress" and the Natives were fearful that Congress might use this mandate to simply wipe out all of their claims. They wanted to preserve whatever rights they might have, although at that time it was unclear what they were.

The Members of Congress who drafted the statehood bill were also concerned about what their actions might mean *vis-a-vis* the claims. On the one hand, they wanted to leave all existing claims undisturbed. On the other, they did not want to give the claims any legal validity they did not already have.

It is clear from their conversations recorded during the public markup sessions in 1954, that some Senators did not think that the claims were valid. Others used the unsettled claims as one more argument against statehood. When the committee met in 1954 to iron out the details of one statehood bill which subsequently died without coming to a vote in the House of Representatives, the U.S. Department of Justice advised the Senate not to mention Native rights at all, even if just to disclaim them. Senator Guy Cordon (Republican, Oregon), who was running the meeting, and Senator Henry Jackson, who was subsequently to become the chief arbitor of the claims question, agreed to the Department of Justice's position. Alaskan Delegate E. L. Bartlett argued that the absence of a disclaimer of Native rights would lead to the interpretation that Congress did not think there were any aboriginal rights involved, and would be certain to anger Indian organizations across the country.

Congress finally approved section 4 of the Statehood Act of 1958, which did include a disclaimer:

> As the compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this act the right or title to which is held by the United States or is subject to disposition by the United States and to any lands or other property including fishing rights the right or title to which may be held by Indians, Eskimos, or Aleuts . . . or is held by the United States in trust for said Natives; that all such lands or other property including fishing rights the right or title to which may be held by the United States in trust for said Natives shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority except to such extent as the Congress has prescribed or may hereafter prescribe and except when held by individual Natives in fee without restrictions on alienation.

Later, some would argue during claims settlement hearings that section 4 invalidated the Natives' claims; Congress, however, would decide that this affirmed its right to settle them.

After a majority of the voters in Alaska accepted the Statehood Act of 1958, the State created a department of natural resources which through its division of lands would choose, manage, and dispose of Alaska's 102 million acres from the public domain. The division of lands choose tracts of land from the public domain at a very slow pace, primarily because no one was sure what the land in Alaska contained. In 1961, the BIA filed protest to State selections on behalf of four Native villages. These villages claimed about 5.8 million acres near Fairbanks, whereas the State had filed for patents to 1.7 million of these acres. A flood of Native claims were filed in 1961, and the Interior Department's regional solicitor ruled that these claims involved "Indian title" and that any settlement of them must involve the careful determination of facts. This was not the business of the BLM, the solicitor argued, so local land offices were instructed to dismiss all claims on jurisdictional grounds, except those for 160-acre allotments.

The BIA and the BLM, both agencies of the Interior Department, were clearly operating at cross purposes in Alaska in the early 1960's. On the one hand, local representatives of the BIA urged Natives to claim all the land they could under any available means and to protest State's selections of lands which they considered their own. On the other hand, local BLM offices dismissed these claims as fast as they were filed.

The action of the State of Alaska of selecting lands which Natives claimed would become the catalyst for the claims settlement.

Native associations began to be organized at an increased pace. In 1962, the *Tundra Times*, a Native weekly, was created to provide a common information linkage for Natives.

Natives increasingly filed administrative protests against State selections, and filed claims on land they had traditionally used.[3]

In 1964 Natives achieved a major political victory when Secretary of the Interior Udall refused to grant Alaska title to land it selected, because of Native protests.

In 1966, the movement to create viable native organizations reached the State level and the Alaska Federation of Natives (AFN) was founded.

Also in 1966, Natives protested the new Federal oil and gas lease sale on the North Slope.[4] Secretary Udall responded by first suspending the lease sale and thereafter "freezing" the disposition of all Federal land in the State until Natives' claims were settled.[5]

In 1969, former Alaska Governor Hickel was nominated as Secretary of the Interior. Opposition to his nomination existed among environmental groups, as well as in the Native community. The Native community extracted a pledge from Hickel to continue the "freeze" as a condition of their support.

The effect of the freeze on creating the political climate and pressure for a settlement cannot be underestimated.[6] Although much disagreement as to terms existed, a strange troika coalition seeking settlement was created: Natives seeking "title" to their aboriginal lands; the State of Alaska seeking to clear Native title so it could select its lands; the major oil companies—national and international—seeking to clear Native title so that the "freeze" could be lifted and a pipeline built.

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[3] By 1968, approximately 337 million acres in Alaska were claimed by natives.

[4] The Arctic Slope Native Association would eventually claim 57 million acres in the North Slope—their traditional use area.

[5] Public Land Order 4582, issued in January 1969, formalized this freeze shortly before the administration changed.

[6] See Berry, M. C., "The Alaska Pipeline"; The policies of oil and Natives land claims.

The Natives and the State joined together in a commission and proposed terms of a settlement.[7] Congressional field hearings began, and serious business of hammering out the settlement began in earnest. The process would take another 2⅓ years of negotiations, lobbying, and compromise to produce legislation acceptable to all parties.[8]

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[7] These terms were to change many times before the Act was finally passed.

[8] During this period, AFN and Alaskan natives generally developed into major lobbying forces in support of the settlement, and of settlement terms most favorable to the native community.

CHAPTER II. THE ALASKAN NATIVE CLAIMS SETTLEMENT ACT (ANCSA) PUBLIC LAW 94-204

The ANCSA is an extremely complex piece of legislation, reflecting all manner of compromise and partially effectuated political philosophy.[1]

A. Policy of the ANCSA

Congress states that it intended a fair and just settlement of the Native aboriginal land claims. The settlement should avoid litigation, allowing for maximum native participation without, however, creating reservations, wardships, or racially defined institutions.

B. Alaskan Natives

ANCSA defines Alaskan Natives as persons with 1/4 or more native blood. This blood quantum requirement is waived where it is the community judgment that both an individual and his/her parents were regarded as Natives.

C. The Settlement Terms

All aboriginal claims and rights, including hunting and fishing rights are terminated and a Native right to fee simple title in approximately 40 million acres, plus a shared cash settlement (called the Alaskan Native Fund) of $962,500,000 was settled.

D. Native Corporations

Congress mandated the creation of 12 regional State-chartered profit-oriented corporations, and State-chartered corporations—either profit or nonprofit—village corporations in each native village.

1. REGIONALS

The 12 regional corporations were to follow common heritage lines and hold subsurface rights to land selected by village corporations, and in some cases, hold land both surface and subsurface. A 13th corporation was allowed by Congress for nonresident Natives if they so elect; each Native enrolled in the region would receive 100 shares of stock in his/her regional corporation.

2. VILLAGE CORPORATIONS

Each native village (with a population of 25 or more) was to receive an allocation of land, based on a population formula.[2] Villages were

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[1] This brief section will highlight the pertinent provisions, and identify the entities created by ANCSA. It will not, however, attempt any definitive or sophisticated analysis of the legislation.

[2] Villages in southeastern Alaska received the least land, in recognition of the Court of Claims judgment in the Tlingit-Haida suit.

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to receive anywhere from 23,040 acres to 161,280 acres. Village corporations were to receive the surface estate to the land they select.

Village corporations must convey title to any tract occupied as primary place of residence, a business, a subsistence campsite or headquarters for reindeer husbandry. Village corporations must also convey a village site of not less than 1,280 acres to the municipal government in the village, or in the event there is no existing village municipality, 1,280 acres are to be held in trust by the State until such is created.

E. FINANCIAL DISTRIBUTION

Moneys from the Alaska Native Fund are provided over a specified time period to the regional corporations proportionately based on the number of each corporation's stockholders versus the total number of all stockholders.

Seventy percent of all revenues produced from subsurface minerals or timber resources of any regional corporation is subject to "revenue sharing" among the regional corporations. Revenue is shared based on the proportionate number of stockholders.

Not less than 10 percent of any moneys received from the Alaska Native Fund and from "revenue sharing" by regional corporation must be disbursed to stockholders.

Not less than 45 percent (50 percent after 5 years) of moneys received by the regional corporations shall be distributed to the village corporations in its region apportioned on the basis of the number of stockholders. The village corporation must make a proportionate cash distribution to nonresident stockholders.

F. NATIVE LAND SELECTIONS

1. ANCSA provides certain lands—but not all—from the public domain: National wildlife refuges, national forest, and so forth from which native selections are made.

Village corporations (within 3 years) were to select lands starting from native village sites that are reasonably contiguous, compact, and in whole sections (1,280 acres).

Approximately 22 million acres were to be selected by villages. Villages would eventually receive surface title, the regional corporation would get subsurface. If a village selects land where subsurface rights are impaired, for instance, Naval petroleum reserve or wildlife preserve, the regional corporation receives selection rights to equivalent subsurface acreage.

The difference between the actual total village selections and the 22-million acre allocation (surplus acreage) is to be allocated to the regional corporation, which in turn must allocate on an equitable need-basis back to village corporations.

An additional 16 million acres were allocated to the regional corporation which would select from this 16 million, if it already had achieved its full acreage entitlement pursuant to other portions of ANCSA.

An additional 2 million acres is provided for selection by regional corporations for historical and cultural sites.

2. CONVEYANCES

All conveyances from the United States are subject to valid existing rights: Leases, contracts, right-of-way, easements, mining patents, etc.

Once selection and easements are determined, a form of title called Interim Conveyance will issue from the Department of the Interior which allows for the use of the selected land.

Fee simple title requires the selected lands to be surveyed. No time limit is placed on the United States for conveyance of land.

3. A JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION

The planning commission was established for a number of purposes most important of which was to make recommendation concerning easements to attach to land conveyances to native corporations.

4. EASEMENTS

Unlike standard property law where public easements, and so forth would be determined and compensated for in a judicial forum, or by negotiation, ANCSA provides for public-use easements to be established at the time of the conveyance of land.

G. Special Provisions

1. REVOCATION OF RESERVATIONS

All reservations, except Metlakatla are revoked; land title becomes unrestricted.

Any former reservation may select to hold its land in completer fee simple (rather than just surface estate); however, if it does so it does not share in the monetary component of ANCSA.[3]

2. REVOCATION OF INDIAN ALLOTMENT

The Allotment Act is revoked subject to pending applications which may be processed at the option of native applicant.

3. TAXATION

Revenues from Alaska Native Fund are not taxable. Stock receipt is not taxable.

Income produced from investment is taxable.

Land not producing income is tax exempt for 20 years.

Any future capital gains tax to be computed from fair market value at time of receipt.

4. NONALIENABILITY OF STOCK

Stock may not for 20 years be alienated, sold or otherwise transferred.

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[3] Of the 23 pre-existing reservations so selected.

5. SUBSISTENCE HUNTING AND FISHING

The Secretary is authorized to set aside 80 million acres for eventual congressional determination as to creation of national parks, and so forth. These lands are known as D(2) lands and native ability to use these lands for subsistence is unclear.

6. PIPELINE CONSTRUCTION PERMITTED

The land freeze instituted by the Secretary of the Interior is terminated.

CHAPTER III. ISSUES DIRECTLY RELATED TO ANCSA

As previously indicated, ANCSA is an extremely complex statute which evolved over a protracted time period. ANCSA attempted to resolve the conflicting interests of Natives, the State of Alaska, the Federal Government, and corporate petroleum interest. In the best of circumstances, creating a balance between these interests would definitionally lead to ambiguities and conflicts of interpretation. Added to this inherent problem are unanticipated consequences which ultimately could occur.

A. CURRENT ISSUES

1. CONVEYANCES OF LAND

(a) *Overview*

ANCSA contemplated a fairly quick transfer of title to the approximately 40 million acres recognized as the land portion of the settlement to the various mandated native corporate entities.

A fixed timetable was provided for the native corporations for land selection. This timetable was adhered to by the native corporations.

No fixed timetable was provided in ANCSA for the determining easements or conveyances of title by the Federal Government. The act, however, does use the term "immediately" in referring to the Secretary's obligation to transfer title to native corporations. The next step contemplated in the process was for a determination of easements that are to be attached to conveyances. Once easements are determined, "Interim Conveyance," a form of title which allows for developmental use of the land, will be issued. Following interim conveyances (I.C.), the selected land will need to be surveyed before fee simple absolute title will be issued.[1]

The major stumbling block to receipt of land by native corporations is the Federal Government's easement policies and procedures.

ANCSA provides (sec. 17bc 1) that public easements shall be at:

> periodic points along the courses of major waterways which are reasonably necessary to guarantee international treaty obligations, a full right of public use and access for recreation, hunting, transportation, utilities, docks, and such other public uses as the Planning Commission determines to be important.

The authority to reserve easements is vested in the Secretary of the Interior. The process contemplated is for the Joint State-Federal Planning Commission to recommend, after consultation with parties of interest, easements to the Department of the Interior (through BLM) for action of the Secretary. In fact, the process at its most expedited fashion for any particular parcel of land, is for BLM to suggest tenative easements, which are then circulated for comment (60 days): BLM revised proposed easements are then submitted to the Joint Planning Commission with supporting data; the Joint Planning Commission reviews and revises the easement package and submits it back to BLM (60 days); BLM reviews the Joint Planning Commission package and publishes its intention to convey subject to recommended easements (30 days); and an appeal period is provided publication before "I.C." is issued (30 days). This expedited process is to take 180 days or 6 months. In fact, to date only approximately 500,000 [2] acres of I.C. have been issued.[3] Villages report initial meetings with BLM anywhere from 6 months to 1 year ago on proposed easement packages, most of which they did not agree to, and there has been no action or contact since.

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[1] Only 2 percent of Alaska's lands have been surveyed; this process will take decades.

The cumbersomeness of the process and BLM's performance competency are, however, the minor part of the trouble; the problem lies with the standards being applied by the Department of the Interior to determine easements. The standards are broad and all-encompassing, and many native people throughout Alaska objected to BLM's initially proposed easements as "Indian giving"—taking back vast quantities of land throughout the easement process. While the governing statute refers to "periodic" shoreline easements, Interior's position is for a 25 feet/coastal continuous easement [4] 15 feet continuous stream easement, plus numerous continuous trail easements. Where land was selected by native villages for primary subsistence activities, these easements which apparently are designed to give nonnatives full access to native lands pose a serious threat to such activities.

In addition to the above easements is the "floating transportation corridor easement" which potentially restricts usage of a large land area based on the future possibility that some portion of the corridor may be used. ANCSA 17(c) contemplates that if the Secretary withdraws utility and transportation corridors pursuant to pre-existing authority, the native corporations would not select such land but would select other lands. The congressional intent therefore was probably not to have native selections diminished by such transportation and utility corridors.

(b) *Views of native corporations*

The Bristol Bay Native Corporation (BBNC) views its biggest problem as getting conveyance to land so that it may manage and develop its lands in order to be self-sufficient when the tax immunities run out in 1991. It will miss the opportunity to develop if the land is not conveyed soon. In its opinion, land conveyances have been held up indefinitely by BLM because of staff shortages at BLM and the Land Use Planning Committee and because of the absence of guidelines on easement criteria and the unacceptable easement packages requested to date by BLM. BBNC has on four different occasions presented its land selections to BLM. BBNC would not only like to see an immediate interim conveyance of its lands so that it can begin development to insure its future, but also it would like to see an extension of the moritorium on taxation so that the 20 years exemption starts from the time it receives I.C. As a way to resolve the conflict, BBNC and other regional corporations have proposed a solution whereby "I.C." would be granted immediately subject to future easement determinations either via negotiation or litigation.

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[2] As the act has already run 5 years, a conveyance rate of 100,000 acres per year adds up to 400 years to convey the full acreage. If one were to assume that Interior could only have been issuing title for 2 years (the first 3 years for selection and preparation), the conveyance time still calculates out to an absurd 160 years.

[3] A further complication is pre-existing native allotment applications. In federal court, BLM was found to have not properly processed such allotment applications and ordered to redo the native allotment process. These native allotments are of course in the same land area as the native villages and will cloud title to any corporation land area as the native village and will cloud title to any corporation land until determined. BLM must process both allotments and ANSCA: it does not have the staff for both.

[4] This requirement is particularly curious since the State already has coastline access, via State law.

Tyonek Native Corporation (Cook Inlet Region) is the successor entity to the former Moquawkie Indian Reservation. Corporation officials argue that they should receive immediate easement-free patent to the former reservation land because of valid prior existing rights to the reservation land and because the land has been adequately surveyed.

They reject the idea of reservation easements for public use because, first of all, there has never been "public use" of the former reservation. Second, the easements requested are in direct conflict with the intent of Congress to provide an economic base for the successful future of the village corporation because the easements would impair the surface estate of that base. The TNC does not believe that ANCSA converts former reservations to "public use." This "public use" view of BLM is contrary to past usage of lands reserved exclusively for the people of Tyonek. The Moquawkie Indian Reservation was private prior to ANCSA in accordance with the corporate IRA charter of the native village of Tyonek. This policy was supported and protected by the Department of the Interior. In addition to the status problem, the corporation is unable to determine what are the "applicable laws and regulations" pertaining to the interim administration of former reservations covered by section 19 of ANCSA. Tyonek would also recommend that tax exemptions are extended for 20 years from the time of conveyance.

The Bering Straits Native Corporation shared many of the views expressed by the Bristol Bay Native Corporation, specifically that the corporations were held to a rigid timetable whereas the Secretary is being held to none.

Land conveyances have been held up by staff shortages and lack of appropriate easement criteria. This delay has stopped all development to the detriment of the future economic viability of the corporation.

The coastal easements are particularly objectable to Bering Straits because most of its villages are fishing villages on the coast and need to insure their own access to the sea for fishing and for the development of fish-related industries. It is also possible that the coastal areas have residual gold deposits and a blanket coastline easement would complicate ownership and control of such assets. The corporation particularly questioned why Alaska Native lands receive different treatment from that given private lands in the lower 48. Land should be first conveyed and then the natives would negotiate easements with just compensation. It questioned the right of the Government to take native land without compensation via the easement process.

The Sitnasuak Native Corporation (Nome Village Corporation) made the following comments on the effect of the delays in land conveyance: "Without our 'paper title' we are not able to develop our lands. The jurisdiction of managing the land is still in the hands of the Government. During the time between the selection of land and the actual receipt of patent, a great portion of the money settlement will devaluate. This money will be needed to protect the land should the property taxes reach tremendous heights. The long-range planning for development of the lands is hindered because we do not know which lands we will be receiving."

Sealaska Corporation officials agree that the chief problem in the implementation of ANCSA is the Secretary's present criteria for granting easements. The Secretary is allowing BLM to request continuous, floating and blanket easements as opposed to "periodic" easements which are "reasonably" necessary. The effect of the blanket easements will be to erode the native land base under ANCSA.

Doyon Ltd. took a somewhat different position on conveyances. Except for certain critical areas, Doyon's wish to develop immediate conveyance of land was not its most serious problem. Doyon Ltd. is to receive 8 million acres which will require considerable managerial capability. Doyon's position is to accept interim conveyances with easements and fight the easements in court later. It does not want BLM, however, to stop conveying land because of court battles disputing easements.

2. REVENUE SHARING

(a) *Overview*

The 7(i) provision of ANCSA sets up a procedure whereby 70 percent of each regional corporation's revenues from timber or subsurface (minerals) estate, shall be shared between all regional corporations on a proportionate enrollment basis. Revenues produced from other investments or sources are not subject to this provision.

The major issue is, What is revenue? Assuming that it would not be sensible to share gross revenues, the issue becomes how to calculate net revenues—what are legitimate deductions, depreciations, *et cetera*. A further issue, given the variances in acceptable accounting procedures, is how to coordinate and systemize 12 independent business entities so that each may trust the determinations of the other.

Another impact of 7(i), given its uncertainty of application, is that it may have an inhibiting effect on corporate development decisions.

Solving the mechanics of how 7(i) will work is but one step. The mere fact of revenue sharing may inhibit economic exploration and/or development unless the economic returns are potentially very substantial; for example, since they must share, corporations may develop only the projects with the highest returns as opposed to projects with nominal returns.

Another serious potential concerns limitations of mechanisms for development. Coupling the revenue-sharing provision of 7(i) with other mandatory revenue-disbursing sections, no corporation conceivably will be adequately capitalized to enable it to be sole developer, forcing it into leasing and other third-party arrangements.

(b) *Views of Native corporations*

While all corporations interviewed indicated that 7(i) was creating present problems, there is clearly a split as to its importance.

State Senator John Sackett, chief executive of Doyon, Ltd., thought that a serious oversight of ANCSA is the lack of definition of revenue. The Secretary of the Interior has not attempted to resolve this difficulty and therefore has forced corporations to enter into multiple lawsuits. Some corporations have already spent what others consider 7(i) revenue, while other corporations have placed as much as 100 percent of their revenues in escrow to avoid future legal battles. Senator Sackett said that he does not favor revenue sharing 7(i) due to the administrative difficulties in monitoring every corporation's accounting system.[5]

On the other hand, Jerome Trigg, president of Bering Straits Native Corp., endorsed the concept of revenue sharing as a good thing since such a mechanism would create a network of communications and and interrelationships among the regional corporations. He was, however, pessimistic but the amount of net revenues that could be shared because revenue would be severely diminished by State taxation.

3. DEPRECIATION OF FINANCIAL COMPONENT OF ANCSA

(*a*) *Overview*

ANCSA sets up a fund—called Alaska Native Fund (ANF)—of close to $1 billion from both the Federal Treasury and a 2-percent royalty on mineral leases from certain Federal and State lands. The portion from the Federal Treasury was to be appropriated over an 11-year period. The other one-half billion is to be paid as earned from the 2-percent royalty.

To date, practically all moneys in ANF come from congressional appropriations.

It was contemplated that this fund would be, in part, utilized for capital investment purposes by the corporations for development of land.

In fact, since land transfers to corporations are not yet occuring to any meaningful degree, much corporate time and funds are being devoted to fighting the Federal bureaucracy in an effort to secure the land.

On the village level where the least financial resources are found, the sheer management of village affairs, pending land transfers, is estimated to be a $70,000 per village job.[6] In addition to the management and legal costs adhering to an extended implementation of ANCSA, the net worth of the settlement has, and is, being reduced. Normal inflationary forces would make any settlement payable over a long term worth less in purchasing power than an immediate payment. With ANCSA, this factor is complicated by the fact that the 2-percent royalty fund has not yet paid out any significant moneys. Given the extensive cost overruns of the pipeline, and the delay in its completion, substantial revenues from oil resources may still be several years away. Several corporate lawyers estimate that the effective payment has by these above factors been reduced to a $250 to $300 million level.

(*b*) *Views of Native corporations*

Each and every village and regional corporation spoke of the enormous costs—legal fees, accountants, management, and so forth—that exist, with the major revenue source being ANF, a nonreplaceable asset with which to meet these costs.

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[5] AFN has made a proposal for effectuating coordination.

[6] Villages have several different corporate entities, and some Federal and State funds are obtainable by some of these groups. In aggregate, however, there are not sufficient moneys available to support village management.

B. Long-Term Issues

It is clear from the language of ANCSA's Declaration of Policy that Congress, in setting up ANCSA, was attempting to establish a solution without creating reservations, extended wardships, or special permanent racial institutions. There was strong, although not unanimous, support from the Alaska Native community for this view. The Native position, as reflected in testimony before congressional hearings as well as in ANF publications on ANCSA, appears in part to be based on an evaluation of the oppressive role of the BIA in the lower 48 reservations. Concomitant with this appears to be a strong "self-determination" philosophy to control Native destiny, and that any mistakes or failures would at least be their own.

There are, however, without evaluating the accuracy of Native perceptions of reservations and trust status, several components of ANCSA which could destroy the overriding purpose of ANCSA: To recognize and compensate Native peoples now and forever for aboriginal land claims. The two major provisions are taxation and alienation of stock certificates.

1. TAXATION

ANCSA provides that undeveloped land[7] shall be nontaxable for 20 years. Presumably this 20-year reprieve contemplates that during this time, sufficient economic development will occur to permit payment of any and all taxes. There are, however, several developing fallacies to this reasoning. Since land transfers have been so slow, there is a reasonable possibility that economic development—net return on investments—will not be so advanced as to permit payment of any taxes unrelated to income production. Several other factors also affect the corporate potential for economic success once the 20-year protection runs out. Simply put, how realistic is it that any 12 new corporations, often competing in the same markets—for example, several have construction firms—will survive intact? The success rate generally for new businesses in the United States is not assuring. At the village level (205), the problem is made more acute by the lack of management personnel and infrastructure needed for economic development. A pertinent question is, therefore, whether 20 years is sufficient to develop such an infrastructure.

A number of villages have selected their lands for subsistence and isolation purposes. Any taxation of such subsistence land would force development—perhaps economically marginal ventures—which could seriously disrupt the goals of subsistence and isolation. There are, in fact, very few development schemes that do not negatively impact on subsistence goals.

One suggestion made by several Native leaders was that, at a minimum, nondeveloped land should remain permanently tax free;[8] some others suggested that the tax exemption period be extended to overcome the dilatory land transfer practice and that the extension be based on an actual 20-year period after receipt of title.

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[7] The exemption does not apply to income taxes except for disbursements from ANF. There is little opposition among Natives interviewed to paying income taxes—corporate or personal—on revenues. Some people termed it their civic duty.

[8] Alaska does not currently have a Statewide land tax; however, such taxing authority certainly exists at both the State and borough level.

2. ALIENATION OF STOCK CERTIFICATES

(*a*) *Overview*

Native corporation stock certificates are not alienable for 20 years. They may not be sold, counted as a financial asset by welfare, included as an asset by IRS in determining inheritance taxes, lost for bad debts, *et cetera.* After the 20 years runs out. Native corporation stock will be like any other economic asset—anything can happen to it.

If native people are to retain control of the land, they must retain control of the corporations; hence they must control the stock. Since a large corporation can be controlled by a relatively small proportion of stock if collectively held and used, non-Natives, individually or corporately, could potentially end up controlling mandated corporations set up to manage and hold a settlement exclusively for Natives.

(*b*) *Views of Native corporations*

Recognition of this problem by Native leaders varies considerably. There is, however, recognition that a potential, down-the-road problem exists. The pressure of current problems concerning land conveyances, however, seems to have precluded indepth analysis and remedial thinking. Some corporate officials—mainly non-Natives—were strongly opposed to any suggestion that the alienability of stock could be permanently restricted in some manner. Corporate attorneys at both Doyon and Bristol Bay expressed the view that stock acquired under ANCSA was a personal asset which an individual should have the right to sell.

Other Doyon officials were apprehensive about the potential of any massive sale of stock in 1991. One suggestion advanced was to change the corporate structure so that each stockholder would have one vote, rather than voting according to the number of shares; this might diminish the possibility of control by an outside entity based on a small bloc of stock.

Another suggestion advanced by several was to grant corporations "first purchase" rights to any stock. Several problems were also raised with this option; namely, it is unlikely that the regional corporations will have sufficient "excess" capital to purchase stock. Another problem is that this "first purchase" option would have a limited effect on involuntary transfers of stock, that is, loss of assets to the State or other public institutions because of application for public assistance, loss of stock to nursing homes in exchange for admissions, et cetera.

Bering Straits Native Corp. expressed the hope that the corporation would be so successful, both economically and as an employer of the stockholders, that very few, if any, Natives would voluntarily sell their stock. Other corporate officials, with varying degrees of wishfulness, expressed similar views, coupling the success factor with a view that by 1991, stockholders would be so educated to the importance of stock that it would not be voluntarily sold.

The villages were almost completely unaware of the potential problem of stock alienability. At the village level, the luxury of contemplating future problems does not exist. It has been a herculean effort to move from a traditional lifestyle to the concepts and jargon of corporate America. The resources for management of village affairs are meager [9] and the assistance varies. Some corporations have provided their stockholders with boilerplate wills so that stock can be left to chosen heirs.

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[9] See Chapter IV, Section B.

Many villagers felt the problem of stock alienability was raised so that many people would in fact sell or otherwise lose their stock in 1991.

Some Native organizations, particularly those not involved in day-to-day economic management, have begun to rethink the mechanics of ANCSA and the stock issued pursuant to it. The stocks embody Native heritage, a heritage which was received from ancestors, and which should be passed on to their children. The question arises as to whether any person receiving stock under ANSCA should be viewed as a sole beneficiary simply because they were alive at the appropriate time. If stockholders are viewed as sole beneficiaries, then ANCSA may be viewed as a delayed per capita payment not very different from previous methods of settling Indian claims.

This line of reasoning has lead some Alaska Native leaders to rethink their prior opposition to trust status and reservations.

CHAPTER IV. ALASKA NATIVE VILLAGES

Quite clearly, Alaska Natives were governing themselves for thousands of years prior to their contact with the Russian-American company or the U.S. Government. Native village governments organized along western lines occurred with application of the Indian Reorganization Act of 1934 (IRA) as amended by the act of May 1, 1936.

The first step in the process of formally organizing Alaska Natives came prior to the application of the IRA with the passage of the Native Townsite Act of 1926 which authorized the Secretary of the Interior to issue a patent to a trustee for nonmineral public lands claimed and occupied by Natives as a town or village site. The trustee could in turn convey by restricted deeds the village or individual lot to adult Natives. The act further authorized the surveying of the villages into lots, blocks, and streets.

The act of May 1, 1936, was passed to remedy the failure of the IRA to extend the incorporation and credit villages to Alaska, but more importantly to authorize an entity or organization which was more suited to Alaska Natives. Section 7 of the act of May 1, 1936 provided that:

> Groups of Indians in Alaska not heretofore recognized as bands or tribes but having a common bond of occupation, or association, or residents within a well-defined neighborhood community or rural district, be organized to adopt constitutions and bylaws and to receive charters of incorporation. . . .

Three kinds of organizations were then possible under the IRA as applied to Alaska: (1) Native villages organized for municipal purposes; (2) groups organized solely for business purposes; and (3) groups not comprising all the residents of the locality, but having a common bond of occupation, that is, fishermen's cooperative. Of 215 recognized Native villages, 70 adopted the provisions of the IRA while 145 retained traditional modes.

Pursuant to Public Law 280, as amended to include Alaska (18 U.S.C. 1162) the newly formed State of Alaska assumed criminal and civil jurisdiction—subject to specific exemptions—over Native communities.

Beginning in 1963, a Federal policy emerged which had its roots in territorial legislation such as the Indian Village Act[1] and the Municipal Incorporation Act[2] which encouraged Native villages to incorporate as cities under Alaskan law. In communities which had incorporated, the IRA constitution and bylaws were revised and incorporated in the city charter. The city council became the sole political entity for the community. The IRA council did, however, continue to exist to operate and control Federal financed business enterprises or Federal services. By 1973, 84 Native villages had organized as Alaskan municipalities.

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[1] Cession Law of Alaska for 1915, ch. 11; amended Cession Laws of Alaska for 1917, ch. 25: repealed 1929.

[2] Compiled Laws of Alaska for 1933, ch. 44.

As a result, there are basically three types of governments under which Native villages operate in Alaska today. They are: (1) State-incorporated municipalities;[3] (2) IRA councils;[4] and (3) traditional (non-IRA).[5]

A. POTENTIAL FOR LOSS OF NATIVE CONTROL

As previously mentioned, approximately 84 Native villages have incorporated as either first-, second-, third-, or fourth-class cities under State law. The class of city appears to be determined by the number of inhabitants needed to incorporate. For example, the first-class city requires at least 400 permanent inhabitants and at least 100 of the qualified voters must sign the incorporation petition. A second-class city requires at least 50 permanent inhabitants and at least 15 of the qualified voters must sign the incorporation petition. The only real distinction between the classes appears between the first three, and the fourth class. Only a fourth-class city may not levy property taxes and special assessments and is not responsible for the operation and maintenance of a local school. Though a fourth-class city does not have the power to levy a property tax, at the time of incorporation, if the people so decide they can place on their ballot whether or not they wish to impose a sales tax. A sales tax cannot exceed 3 percent. The sales tax is the only revenue a fourth-class city has to defray the expense of its village government.

Once a Native village incorporates as a unit of local government of the State there are no safeguards that it will remain a Native controlled village since changing a purely tribal government to a municipal corporation means that 14th amendment equal protection applies and nonnatives cannot be excluded from the political process. Nonnatives may vote, run for, and hold office within the community. Although for many Native villages of the interior of Alaska, this is only a problem in theory, the Native communities of southeast Alaska are facing this problem of loss of control to nonnatives today. Saxmon, a Native village and second-class city, is feeling the growing pains of the city of Ketchikan. On numerous occasions, Ketchikan has attempted to annex Saxmon. The Ketchikan Gateway Borough (similar to a county governmental unit) has imposed its property tax and zoning ordinances on the nonrestricted lots in the city limits of Saxmon. The traditionally Native fishing village of Hoonah, a first-class city, now has 200 nonnative residents out of a total population of 950. Three of the six councilmen are nonnative. If Hoonah partitions into residential lots, the 1,280 acres it is to receive from the ANCSA village corporation pursuant to section 14(c)(3) it may have to, under the same equal protection notions, be made available to both Natives and nonnatives. With the great influx of nonnatives into the State, especially in the southeast, Native villages will be hard pressed to maintain control of their communities.

B. IRA AND TRADITIONAL NATIVE GOVERNMENTS

The great majority of Native villages operate either under the IRA or some traditional form of government. The future of these governments is unclear with the passage of ANCSA. There are no ANCSA provisions which purport to force them to incorporate as State municipalities; however, the act's clear intent was not to establish any "permanent racially defined institutions." Former reservations were revoked and Indian allotments statutes repealed.

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[3] Saxmon, Hydaburg, Kake, Hoonah, Fort Yukon, Ruby, Golovin, and Unalkaleet fall into this category.

[4] Klukwan.

[5] Arctic Village.

What is clear about the impact of the act at this point in experience is that Native villages will have severely restricted ability to exercise powers of self-government. Because of the pervasive impact of Public Law 20, they are presently exercising no law enforcement or judicial powers. It is presently unclear, although clearly a good argument can be made that Native villages are "Indian Country" under the dependent community component of the concept, whether Senate bill 2010 (Improvement of Indian Law Enforcement) would apply to Alaska Native villages if adopted into law. In a letter to Sidney Freeman, of the Office of Management and Budget, dated April 6, 1976, Office of the President, the Governor of Alaska voiced his concern that Alaska Native villages not be included within the coverage of the bill. It is the State's position that the retrocession of exclusive State criminal and civil jurisdiction back to the Federal Government and Native villages would be contrary to the act's expressed purpose of not creating any permanent racially defined institutions. In many areas of Alaska, this means waiting days before an incident can be investigated—in effect, no law enforcement. Unlike incorporated cities of Alaska which have State law enforcement authority, and therefore can seek LEAA funds, Native villages cannot. In actuality, the incorporated cities visited fared only a little better. Four of the eight municipalities visited had no law enforcement personnel.

Native villages are also handicapped because of a lack of revenue to support their governmental operations. Both Klukwan and Arctic Village do not have sufficient income, although both utilized CETA funding, to salary any village council positions. The incorporated municipalities do not fare much better. Five of the eight cities could not salary their mayor or council. Almost every city manager, city clerk, and police officer is financed with CETA funds.

Generating revenue will always be difficult given the limited size of Native villages. A case in point is the remote Indian community of Arctic Village. Arctic Village was part of the 1.3 million acre Venitie Reservation which was revoked by ANCSA. Pursuant to section 19(b) of the act, the village opted for fee title to both the surface and subsurface estate of the former reservation rather than select only surface estate lands under the provisions of the act. Title will not pass to the village council but, rather to the village corporation. Any revenue potential would belong to the village corporation and that village council cannot avail itself of any income realized.

Although it would appear IRA and traditional Native villages can prevent non-Native control over their governing institutions, it is unclear whether they can prevent non-Natives from living in their community. If the village council decides to parcel out bits of 14(c)(3) lands for residential lots, like the incorporated village, it may not be able to restrict its sales to only Natives.

C. Indian Self-Determination Act

The current definition of "Indian Tribe" found in section 4(b) of the Indian Self-Determination Act includes:

> . . . any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined or established pursuant to the ANCSA (85 Stat. 688) which is recognized as eligible for the special programs provided by the United States to Indians because of their status as Indians.

As applied to Alaska, definition would appear to include: (1) 145 traditional village councils; (2) 70 Native villages organized under the IRA; (3) Tlingit-Haida Central Council (a tribe established pursuant to a Federal statute) and perhaps other groups cognizable as a tribe; (4) 255 Native villages defined to establish pursuant to ANCSA; (5) 210 Native village corporations; and (6) 12 regional corporations.

Congress apparently was trying to deal with the "tribal" uniqueness of Alaskan Native institutions. Unfortunately, it created the problem of recognizing anywhere from one to three for each village and making it uncertain whether the regional nonprofit associations [6] are also recognized as tribes.

As a practical matter, the village and regional profitmaking corporations probably would not avail themselves of the Self-Determination Act, because they must devote their full attention and energy to profitmaking ventures. All the regional and village corporations interviewed indicated they were not interested in delivering contracted services to villages with their regions.

It is unclear from the act whether native Villages who have incorporated under State law and no longer have an active IRA council are "Indian tribes" with the meaning of the act. Presently, the BIA has included those organizations in the grant section of the act. It would appear that a city council is not eligible for the special programs provided by the United States since they are merely a unit of local government of the State.

If the nonprofit Native associations are included within the definition of Indian tribe, the real controversy centers on who should receive or be eligible for the grant section and who should be eligible to contract.

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[6] Data compiled from material submitted by the BIA for fiscal year 1975.

CHAPTER V. FINDINGS AND RECOMMENDATIONS

FINDINGS

1. The Department of the Interior has not performed at sufficiently high levels of effectiveness in the implementation of the Alaskan Native Claims Act.

    (*a*) A comparatively insignificant portion of the land to be formally conveyed to Native corporation has in fact been conveyed.

    (*b*) Rather than acting as advocate for Native needs, which it should pursuant to its continued legal-moral obligation to dependent native communities, it has consistently taken position adverse, particularly with respect to easements, to Native interests.

2. The long-term ability of Native corporations to be economically successful is undercut by the significant delay in transfers of land and the severe economic impact of inflation on the financial component of the settlement.

3. The long-term ability of Natives to continue to control their land and corporation will be seriously undercut by their removal in 1991 of the exemption against taxation and the exemption against the alienability of Native-held ANCSA corporation stock.

4. The status of Native villages and their place within the jurisdictional structure is extremely complicated by the application of concepts developed for the lower 48 which may have little applicability to the Alaskan situation.

    (*a*) The grants and contracting provisions of Public Law 638 as presently structured are not readily applicable to meet particular Alaska Native situations, which do vary region to region.

    (*b*) Many Alaskan Native villages under existing funding mechanisms are economically hard pressed to provide even basic governmental services.

RECOMMENDATIONS

1. The Department of the Interior should allocate sufficient resources to its Bureau of Land Management so that all interim conveyances are complete by 1981.

    (*a*) In the event that the Department of the Interior does not have sufficient resources to accomplish the above, it should forthwith seek the necessary authorizations and appropriations from Congress.

    (*b*) Congress should pass all reasonable requests of the Department of the Interior to accomplish this task.

    (*c*) Congress should provide for increasing its oversight functions over the Department of the Interior respect to the implementation of the Alaskan Native Claims Act.

(*d*) Where Alaska Natives have had to resort to litigation to secure from the Department of the Interior proper compliance with ANCSA and are successful, attorneys' fees against the United States should be provided.

2. The easement provision of ANCSA should be repealed.

(*a*) Repeal would mean that easements would be obtainable through the normal proceedings and legal principles applicable.

(*b*) In the interim, the Secretary of the Interior should grant interim conveyance, leaving the easement determination be settled separately either by negotiation or, failing that, by court determinations.

3. ANCSA should be amended so that the 20-year exemption from taxation runs from the conveyance of fee simple title to all ANCSA lands.

4. ANCSA should be amended so that all undeveloped lands—lands producing noncommercial income—remain permanently tax exempt.

5. Congress should establish in 1981 a Special Congressional Commission to determine whether ANCSA will assure the future viability of Alaska Native communities, specifically considering such options as:

(*a*) Permanent nonalienability of Native Corporation stock.

(*b*) The establishment or reestablishment of reservation status.

6. Public Law 638 should be amended so that in Alaska:

(*a*) Self-determination grants should go to Native village governments, either IRA, traditional, or municipal.

(*b*) If both an IRA Council and a municipal government coexist, the IRA, governments' right should be prior to that of the municipal government; the IRA government can, however, waive its right in favor of the municipal government.

(*c*) Regional nonprofit Native corporations should be eligible to contract under 638, subject to preemption by individual Native villages to the extent of their proportionate share of the total contracting funds available to the region.

(*d*) Any recognized regional tribal government should be exclusively eligible for both self-determination grant funds, and contracting.

APPENDIX A

Long-Term Prospects for Native Ownership and Control of Lands Conveyed Under the Alaska Native Claims Settlement Act

I

When passed by Congress in late 1971, the Alaska Native Claims Settlement Act was hailed by many as "the best possible resolution of the land claims issue." Stephen Haycox, Professor of American History at the University of Alaska, Anchorage, called it a "visionary piece of legislation." Many, both Native and non-Native, were also aware that the act would profoundly affect all Alaskans. For some it would alter the nature of their relationship to the land, their attitudes toward it, and their freedom to use it. The land itself was the focus of the struggle. Villagers feared that land would slip out of Native hands in discussions among Congressmen unfamiliar with Alaska or Alaskan Natives. Massive efforts were made to inform Congressmen of the needs of Native peoples for land—not just cash, but land upon which old ways could be maintained, and where development could be carefully planned and encouraged so that the economic hardships endured by Native people could be eased by a steady and continuing cash flow.

The result of that effort was an act which awarded 40,000,000 acres of land and $962.5 million dollars to Native village and regional corporations in Alaska.

Before the act was passed the danger was great that Native Alaskans would lose all their land to white encroachments. Nothing in the history of early Native/white contacts would soften that perspective. With passage of the act, danger to Native land has shifted. Now five years into the settlement era, other threats to Native land are emerging. Some stem from ambiguities and complexities in the law itself. Others stem from arbitrary regulations established by the various bureaucracies involved in implementing the act. Still others lie in the human fallibility and foibles of Native leaders themselves.

Whatever the source of threat, the possibility that land apparently awarded to Natives under the act will never really become theirs, or will soon pass into non-Native hands, is very real. This paper seeks to define some of those threats, and assess future problems and prospects for Alaska Natives and their land.

II. The Settlement Act

In sum, the act provides that 12 regional and 224 (approximately) village corporations be established to select, own, and control 40 million acres of land. All eligible Natives were to become stockholders in such corporations. The Native Allotment Act, existing reserves, and all other claims to Native title were extinguished. The land would be held by the corporation in "fee simple," a phrase which comes from English land law of the late Middle Ages. It provides for absolute ownership and includes the right of the owner to sell the land to anyone or to allow it to pass into heirship. Fee simple title is distinguished from other titles, such as "entail" or "fee tail," which restrict ability to sell or limit inheritance rights. (Washburn, Wilcomb, *Red Man's Land—White Man's Law,* Charles Scribners' Sons, New York, 1971, p. 62.)

To compensate for the lands lost in such extinguishment, $462.5 million was to be paid over an 11 year period. An additional $500 million would be paid from state and federal royalties for the development of certain mineral resources. To facilitate the cash payment the act created an Alaska Native Fund in the U.S. Treasury. Payments from the Native Fund would be made to regional corporations which would retain part of the funds and pay prescribed amounts to individuals and village corporations. The amount of money paid each regional corporation is based upon its proportion of enrolled Natives to the total number enrolled. Villages receive an amount based on their proportion of stockholders to the total stockholders in the region. During the first five years of implementation the regional corporations will pass through 10% of all receipts to stockholders and 45% to village corporations. In following years 50% of receipts will pass to villages and "at large" stockholders (those having no village enrollment).

Some additional stipulations of interest include:

1. Until 1976 all village annual budgets must be approved by the regional corporations.
2. Until 1981 all villages must seek the advice of the regional corporations on all land transactions.
3. In 1991 all shares issued as implementation of the act are cancelled and can be replaced with conventional ownership shares.
4. In 1991 a twenty year exemption from payment of taxes on undeveloped land expires and all land within a tax jurisdiction may be taxed.
5. Regional corporations may require villages and at-large stockholders to participate in joint ventures.
6. Regional corporations own all sub-surface rights to Native lands including those under village selections. Villages own only surface rights.
7. Regional corporations cannot explore or develop resources under village entitlements without village corporation permission.
8. Regional corporations must select land after village selections have been completed and must checker-board their choices, not selecting contiguous townships.
9. Every village relates to a regional corporation.

Though all twenty-two sections of the act are too complex and lengthy to detail here, several provisions are critical to any discussion of threats to Native lands in the future, for some threats arise from within the act itself. These portions of the act will be discussed in the following section.

III. Critical Provisions of the Act

The Congress evidently undertook the settlement of Alaska's land claims with good intention that Native people not be harmed in the process: Section 2(b) stipulates that: "the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska."

However, several ambiguities in the act, and bureaucratic regulations established subsequent to the act's passage, inhibit such an amicable process and its well-intentioned result.

Two sections in particular need to be spelled out.

Section 7(i) and section 21(d) are especially troublesome; the former for its ambiguity, the latter because of the threat it imposes for the future.

Section 7(i) provides:

"Seventy per centum of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this Act shall be divided annually to the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 5. The provisions of this subsection shall not apply to the thirteenth Regional Corporation if organized pursuant to subsection (c) hereof.

Though speaking of joint regional corporation ventures, the ambiguities of 7(i) make the statement equally applicable to the regions and their own member villages.

Finally the cost of 7(i) to the corporations is destructive. A Bristol Bay Native Corporation spokesman stated to the Congressional Oversight Committee in June, 1976, that though admirable in concept, "Legal and accounting fees arising from discord over the section's interpretation and application are consuming an astonishing portion of the cash flow of all twelve regional corporations."

Section 21(d) reads:

"Real property interests conveyed, pursuant to this Act, to a Native individual, Native group, or Village or Regional Corporation which are not developed or leased to third parties, shall be exempt from State and local real property taxes for a period of twenty years after the date of enactment of this Act: Provided, That municipal taxes, local real property taxes, or local assessments may be imposed upon leased or developed real property within the jurisdiction of any governmental unit under the laws of the State. Provided further, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable when received by a non-Native individual or corporation."

In exploring the historic roots of tax exemption in Indian land settlements Monroe Price points out that:

"The time required for exemption to work is critical. The difficulty with exemptions historically has been their brevity. Without such tax exemption, an allotment of land might be ephemeral." (Monroe Price, An Examinaiton of Section 21(d) of the ANCSA, FSLUPC, 1976, page 18.)

The urgency of conveying interim title to Native corporations is critical not simply because it is required by Congress under Section 2(b), but because the ability of Native corporations to retain ownership and control of their land in the future may be determined by the speed with which they can receive title and begin those developments which will enable them to build cash resources to meet the tax liabilities that will be theirs in 1991. This matter will be discussed further in the next section, "Threats to Native Lands in the Future."

The intention of Congress to enable speedy implementation of the act is made clear in Section 14 which deals with conveyance. Several paragraphs in Section 14 begin with the word "immediately."

Section 14(a) reads in part:

"Immediately after selection by a village corporation . . . the Secretary shall issue to the village corporation a patent . . .",

and in 14(b)

"Immediately after selection by any Native village for a Native village listed in section 16, the Secretary shall . . .

and again in 14(e) the necessity for prompt conveyance is stressed;

"Immediately after selection by a regional corporation, the Secretary shall convey . . . title"

Such revenue sharing, evidently intended to encourage cooperation in an effort to work for the mutual benefit of all corporations, has instead encouraged competition and secretiveness between corporations.

"Having laid down this provision for revenue sharing, the Congress failed to pursue the details of implementation, i.e. gross or net revenues, allowable expenses if net revenue is to be shared, accounting procedures, and so on." (Olson, Dean, "Native Land and Capital,"Ahtna, Inc., December, 1974, p. 6).

Indeed, according to one regional corporation president, the failure to determine what are considered to be "sub-surface resources" presents its own kind of problem. Gravel is one such resource, but whether it is to be considered a surface resource belonging to village corporations or a sub-surface resource belonging to the region is in dispute. According to attorneys for Eklutna Corporation.

"Similar questions could present themselves with regard to topsoil, sand, quarrystone, rock and other materials which are generally in large part buried, but yet which often times do form the surface itself. Another area of dispute would concern ground water and strip-mineable coal."

Determinations such as this are time consuming, cause divisiveness among Native peoples, and slow the ability of either village or regional corporations to develop much needed capital assets. As Olson points out,

"The opportunity of presenting a united front during negotiations with energy and extractive industry representatives, has been lost. The opportunity for jointly established land-use goals and end-use objectives, has similarly been foregone." (Ibid.)

The sad fact is that conveyances are not being made speedily at all. Five years after passage of the act only ½ of 1% of the land has been conveyed. As of June 10, 1976, Calista Corporation, one of the largest involved in the settlement, had received no patents or interim conveyances. Neither had any of its 56 village corporations. Indeed the delays in conveyance are causing grave concern among all Native peoples, for delay poses serious threats to Alaska Natives' ability to hold on to their land in the future.

A further threat to Native land ownership lies in application of Section 17(b) which will result in immediate loss of some Native land for public use as easements.

Section 17(b) reads:

"(1) The Planning Commission shall identify public easements across lands selected by Village Corporations and the Regional Corporations and at periodic points along the courses of major waterways which are reasonably necessary to guarantee use and access for recreation, hunting, transportation, utilities, docks, and such other public uses as the Planning Commission determines to be important.

"(2) In identifying public easements the Planning Commission shall consult with appropriate State and Federal agencies, shall review proposed transportation plans, and shall receive and review statements and recommendations from interested organizations and individuals on the need for and proposed location of public easements: Provided, That any valid existing right recognized by this Act shall continue to have whatever right of access as is now provided for under existing law and this subsection shall not operate in any way to diminish or limit such right of access.

"(3) Prior to granting any patent under this Act to the Village Corporation and Regional Corporations, the Secretary shall consult with the State and the Planning Commission and shall reserve such public easements as he determines are necessary."

The import of this provision and some dismaying events since passage of the act, will be outlined in Part IV, following.

IV. THREATS TO NATIVE LANDS IN THE FUTURE

Though threats to Native lands seem to be coming from several quarters, they generally fall into two major categories: (1) The easement requirement and, (2) the pressure on both village and regional corporations to acquire cash. A third important threat stems from the lack of corporate experience and trained leadership available in rural Alaska.

1. Easements

The law provides for the L.U.P.C. to identify public easements across Native land and "at periodic points along the courses of major waterways." (See page 9 of this paper for full quotation of section 17(b)). In making its determination, the commission is required to consult with the appropriate state and federal agencies. Such easements would allow public use of the selected areas and inhibit Native development of resources.

Several difficulties arise from the failure of Congress to be more specific in this section. How wide should such easements be? What is a "major waterway?" How many are necessary? There is obvious room for disagreement on these and other questions. Robert D. Arnold, editor of *Alaska Native Land Claims*, describes an early problem with the ambiguities of this section. In the course of "consulting with appropriate" federal agencies the Land Use Planning Commission sought out the Bureau of Land Management.

"When, in early 1975, the Bureau of Land Management issued its preliminary system for transportation and utility corridors—a form of easements—Natives were shocked. For corridors alone the federal agency was proposing more than 11,000 miles of easements, many crossing Native lands." (Arnold, Robert D., *Alaska Native Land Claims*, Alaska Native Foundation, Anchorage, 1976. Pages 269, 270.)

In addition, rather than periodic access points provided along streams the Bureau proposed easements along the entire coast and along both shores of all rivers in the state.

The result of such a taking of Native land for public use would entail a massive loss of land for regional and village corporations. Calista Corporation in Southwestern Alaska, estimates that 30%–40% of its lands will be affected by navigable waters easements, yet no definition of "navigable" has yet been provided. Estimates of amounts of land involved in easements are still unclear, but they range from 5 to 11.5 millions of acres. Arnold quotes Roger Lang, former President of Alaska Federation of Natives, testifying at hearings on the subject.

"Congress clearly did not intend in the Act to grant Natives a right to select lands from the public domain and then permit federal agencies to take the land back by calling their uses 'easements.' " (Ibid.)

Yet William L. Hensley, a member of the Board of Directors of NANA Corporations says:

"It is becoming ever more apparent that the provisions of the Settlement Act for only limited easements on the lands are being greatly expanded by the

Department of Interior and are being used by the Department to effectively deprive the Native Corporations of many of the rights ot the land for which they fought so long and hard." (Hensley, William L., Testimony before Senate Committee on Interior and Insular Affairs, June, 1976.)

Without substantial Native participation the fear is that BLM easement decisions will be made by caprice, on the basis of factors unrelated to the merits of the issues, in response to political pressure, or personal inclinations. Since some BLM personnel seem dedicated to the position that the Settlement Act was really a mistake anyway, the latter basis for decision making could mean disaster.

Conveyance of land to Natives now requires identification of easements by an Easement Task Force which is within the Bureau of Land Management. Clearly such a task force is going to seek to have its own systems of easements adopted. Its ability to make easement identifications prior to conveyance forebodes long delays in the conveyance process—a practice which may have disastrous consequences, some of which are described below.

Though section 2(b) stipulates that "the settlement should be accomplished rapidly . . . *with maximum participation of Natives in decisions affecting their rights and property* . . ." many Native people feel like a Yupik Eskimo who told the Bureau of Land Management in a public hearing, "I feel like I'm just wasting my breath." (Testimonies spoken by Western Alaskans to the BLM, January 30, 1975, Bethel, Alaska.) Bill Morgan, Eskimo, said:

"Look at the country. First you're going to take the land away that we already selected. And we selected it because we wanted that land—Well sure they want an easement. They're going to ease us right out of our land." (Ibid., page 3).

The fear that easements will be planned without Native participation are very real. Speaking from past experienec and present realities, David Friday said:

"The BLM has over-stepped its authority . . . Alaskan Natives have not been consulted with this program from the beginning . . . My people know that plans must be made for Alaska's future. But my people do not see these plans take place with their knowledge." (Ibid, p. 14).

In addition to the initial easements for trails, roads, recreational access, and other public uses, the Secretary has now published a second order requiring "floating" utility corridors for future use in extracting energy resources. The corridors are as yet unidentified and cast a cloud on the title since BLM can come in at some future date and designate a "utility" or "resource" corridor. With this second easement order the Secretary has gone far beyond his authority and against the intent of Congress.

As William L. Hensley pointed out:

" . . . after delaying more than four years before issuing these policy guidelines, it issued them in the form of Secretarial orders, rather than through the process of promulgating regulations, thereby virtually eliminating the Natives' opportunity to have input into the process." (Hensley, Ibid.)

Clearly easements will seriously reduce Native land options. If unidentified easements are permitted, then no land title can be clearly transferred. Sale of land, leases for development, and other land use options will be jeopardized. If some easements are entirely withdrawn from Native selections then Native land holdings in fee simple title could be reduced to as little as 29.5 million acres rather than the 40 million Congress intended.

2. *Pressure to Acquire Cash*

There are a variety of pressures upon both regional and village corporations to acquire cash. These range from the desire "to meet real or imagined needs," as one regional corporation executive put it, to the need for cash to meet future tax liabilities, and the need for dividends. Delay in acquiring land for development lends itself to financial deterioration due to inflation. Slow conveyance of lands helps inflation eat up funds. Though not all corporations are presently within taxing jurisdictions, nearly half have some land liable for tax purposes. Some have all their land in taxable areas, some approximately half, others smaller amounts. But all corporaitons face the likelihood of taxation. Already one legislator has proposed a statewide property tax on all lands not already taxable. At least one borough has begun to expand its boundaries to include larger amounts of Native land within its borders. Such expansion of taxable areas threatens every region.

Therefore, of all the pressures to acquire cash, perhaps the most devastating and fearsome is the *taxation* that looms in 1991 when the twenty year exemption ends, or on land which is developed or improved prior to the exemption deadline.

In order to meet their tax obligations, regional and village corporations need to have clear title to the land so that its assets can be developed to build cash reserves. The delays in conveyance by an apparently reluctant BLM put corporations faced with taxes into a difficult posiiton. If delayed too long the land cannot be developed in time to generate the income to pay the taxes.

The cause of the delay seems clear to many Native leaders. As a spokesman for the Bristol Bay Native Corporation points out:

"The proximate cause of delay is the set of incredibly cumbersome methods employed by Interior to identify and preserve non-Native interests in Native lands. The Rube Goldberg contraption they use to put . . . easements into title documents is a good example . . . If everything is done within the deadlines, if the documents go into process at one agency the day they come out of . . . the prior agency, and if there are no aggrieved parties (or if aggrieved Natives waive their appeal rights) the easement reservaiton process takes half a year.

"As a result to these methods, the Natives are paying a tremendous price for the protection of non-Native interests." (Alaska Native Management Report June 15, 1976, page 3).

He also describes the hardship such delays invoke:

"We will have to generate cashflow as quickly as we can if we are to meet the tax burdens and corporate takeover vulnerability that will come in 1991 . . ." (Ibid.)

The demands on time, attorney fees, and energy caused by BLM intransigence are great. Roy Huhndorf, President of Cook Inlet Region says simply that BLM is "foot-dragging." Their "capacity to drain us of energy is awe-inspiring." He believes that Congress gauged the economic environment of Alaska too positively when thinking that Natives could move into the economic mainstream. "The end of tax exemption is too short," he says, "and other deadlines are too."

As a result of the ambiguities of the act and the delays of federal agencies, Huhndorf testified in Congressional Oversight Committee hearings in June of 1976, that:

"Each Native corporation is adrift in a sea of litigation.

"The Department of Interior is often unable to speak in a clear and decisive way . . .

"Our leadership is being drained . . .

"Tensions within the Department—between agencies under the jurisdiction of the Secretary—lead to mistrust, hesitancy and failure swiftly to implement the act.

"We are being triply disadvantaged by the failure of the Secretary to convey lands to Native villages "immediately" . . . Inflation is eating away at our settlement. The grace period from state and local taxation has been sorely depleted. And our leadership is being diverted from economic development by disputes over awesomely hostile interpretations of poorly drafted public land orders and Secretarial regulations."

Dick Jansen of Chugach Native Corporation agrees with the above assessment of the effect of delays in conveyance. He believes the delays will "negate the twenty year moratorium" because there will be "a very short time between receiving title to the land and taxation." As another executive put it, "the clock is running out."

Indeed, Bristol Bay Corporation testified in June 1976, before the Congressional Oversight Committee that because of such delays their corporation will lose in excess of one million dollars on a single project. Phillips Petroleum was delayed a year in carrying out planned exploratory work because the corporation had not title to the property where the work was to take place. There were rule changes; there were no typists available, the corporation executives were told while the delays went on.

Other pressures to acquire cash include shareholder pressure to pursue a corporate path that will increase the value of corporate stock. Since some of the regions are a step removed from the subsistence life styles that still characterize village life, the pressure will be on them to increase stock value more than village corporations. As Price points out, "where cultural and economic attachment to the land is attenuated the pressure to raise corporate stock value is increased." (Price, op. cit., p. 56).

An additional pressure on resource rich corporations may arise from other, less favored, corporations. Section 7(i) described above on page 5, places on each region a duty to exploit the region's natural resources. If resource rich corporations fail to develop, they may be liable to suit from resource poor corporations who legally expect to share in the profits from development.

Village needs for immediate cash income also create pressure to develop, lease, or sell land as soon as title has been conveyed. While regional corporations are granted large sums of money from the Alaska Native Fund, village corporations receive much less. A village of 100 population will receive approximately $700,000 in the decade after the Act's passage. This is a munificent sum in light of past village poverty, but inadequate to properly manage the sizeable land assets that accrue to villages.

As Olson notes:

"The monetary compensation due these smaller village corporations, spread over the next decade or more, is insufficient to allow for managerial error. Indeed, given the operational realities facing rural enterprises in Alaska (high costs, lack of skilled management) it is probable that many smaller village corporations are economically non-sustainable entities." (Olson, op. cit., page 13)

Through 1974, 114 villages received from $27,000 to $235,000, more than half the total that will be available in the initial pass through from regional corporations. If none of that were expended for land management purposes but could accumulate a year's interest on the total 10 percent, approximately $25,000 would be available for use by the richest corporations—a sum insufficient to administer land holdings of any size. Of course much less would be available to poorer village corporations. Pressure will be great on such corporations to combine in joint ventures in order to accumulate enough capital to pay taxes, plan land useages, and make a profit for stockholders.

Additional pressure to acquire cash will come from shareholders who want dividends and whose personal cash needs for daily living expenses will remain high while personal cash income remains low. The temptation will be great for village corporations to make land use decisions often "in direct conflict with the desire to pursue a subsistence lifestyle." (Price, op. cit., page 62), Thus the pressure will be to develop resources in a fashion detrimental to traditional values and subsistence patterns or sell land for cash.

3. Lack of Experienced Leadership

Finally, there is the threat of loss of Native land due to the lack of trained, experienced corporate management personnel in rural Alaska. Positions in corporations have proliferated far too fast for the available manpower. The lack of experience and leadership reflects itself in poor management choices which sometimes cause loss of cash reserves, failure to generate income, and failure to file important reports in timely fashion. Village people with little corporate experience are doing amazingly well, but they sometimes make serious errors as they learn to cope with the complexities of the act. One result is a warning issued to three village corporations that the state would dissolve their corporations for failure to hold the legally required annual meetings and file necessary tax returns. The ability of village people to respond to twentieth century business and government practices and regulations will be sorely tested. Village cash receipts are too small to permit the hiring of large numbers of outside consultants or non-Native experts in corporate business. To do so would deplete cash reserves already perilously limited. Thus most village corporations will continue to learn by doing—with occasional disastrous mistakes—and without the help of experts who could provide assistance but cannot be afforded.

The result of these threats and their implications for the future are discussed in the following section.

V. FUTURE PROSPECTS

Native people looking ahead twenty or thirty years view the future with considerable apprehension, some hope, and a kind of guarded wariness. The ambiguities of the act; the necessity for considerable litigation; the requirements of the corporation to make profits; the differing attitudes toward the land between regional corporations, which see it as opportunity for profit, and many village corporations, which see it as opportunity to cling to more traditional lifestyles; the competition between corporations engendered by section 7(i); the pressure to sell lands to meet cash needs; the early deadlines; the bureaucratic delays; and the inexperienced corporate leadership all combine to make optimism difficult.

Many vacillate between optimism on good days, despair on bad ones. All view the future with something akin to awe. Like participants in a great spectacle or drama they are both drawn to the struggle and alienated by it.

One regional corporation executive sketched a possible future for Alaska and Native lands as follows:

1. The land is sold to pay taxes or meet other needs for cash.
2. The real estate market is flooded and returns are low.
3. Under many diverse tenants with conflicting goals, land planning goes to hell.
4. Critical habitat is polluted and subsistence opportunity is destroyed.
5. We all lose. We've killed the geese that laid the golden eggs.

Yet the same executive says he is basically an optimist. He points to a lot of "rending, tearing, and Native people falling by the wayside in the process. The short run is dark." "But," he continues, "I have great faith in the enduring ability of man to survive, even in the face of disaster. We will find the tools we need to survive in a harsh system."

Many point to joint ventures, mergers, establishment of loan funds by richer corporations, and other techniques by which Natives can survive the settlement which is increasingly viewed as a test of survival skill rather than a boon. As one corporation spokesman said, "If we lose the land we lose everything. Natives can't stay Natives without land; they'd just be money-managers."

Given the ambiguities and the threats to Native retention of lands described in the preceding sections, several potential future developments are clearly possible:

1. The pressures for acquisition of cash will create a golden opportunity for what one official calls "the sharking industries." A buyers' market will be created in which corporations respond to cash needs by selling land or leasing it for schemes contrary to Native value systems and traditional appreciation for the land. Corporations caught in severe cash flow problems may react in haste, and under pressure compound managerial errors, grasping at straws in a frenzy to develop. Much Native land will pass into non-Native hands as the real or imagined necessity for cash is felt. Village and regional corporations will both feel this temptation. In the process there is every likelihood that regional or village corporations may find themselves with less than the controlling interest in shares of stocks. Major industries may control the majority of shares in some corporations.

2. Native societies, once cooperative, will find themselves placed in highly competitive situations. Tensions between regional corporations and between regional corporations and their village corporations will increase. A new kind of Native vs. Native economic conflict will be set in motion. The beginning of this can already be seen in conflict and confusions generated by the ambiguous provisions of 7(i).

3. Some land will be lost for failure to pay taxes. As population increases in Alaska, local government boundaries in what now comprises the Unorganized Borough—that vast portion of rural Alaska without local government and outside taxing jurisdictions—will naturally expand. All corporations will be faced with tax liabilities on a mammoth scale. Not all will be able to generate revenues sufficient to meet their tax oblibations and their other commitments as well. Some land will fall back into local, state or federal government hands. One corporation official posed the difficulty succinctly:

"We walk a very delicate balance between the need for cash and the need to hold on to our land. Like the unfortunate soldier in Vietnam who had to destroy a village to save it, we find ourselves in the peculiar position where we may have to sell the land in order to be able to afford to keep it."

4. Native Alaskans as a particular kind of people with special characteristics, a unique set of attitudes, beliefs and other cultural attributes, may disappear. They may become assimilated under the pressure of a land claims settlement many saw as a way of preserving their culture through control of their own land. What education and religion have failed to do after one hunderd years of effort, the settlement act may accomplish in twenty years as everyone becomes involved in the drive, required by law, to make a profit from the land. Village values will be transformed to western corporate values; corporate executive leadership will replace traditional leadership, and Alaska Natives will be lost in the mythical American "mainstream."

For some Native people already on the road to assimilation such an outcome is tolerable, but for the two-thirds of Alaskan Eskimos, Indians and Aleuts who carefully chose to enroll in villages rather than cities or towns, and who see their villages as home, such an outcome is tragic.

In a telling discussion of the history of land settlements with Indians in the lower 48, a professor of law noted that:

"Leasing was not allowed (as part of the Dawes Act of 1887) because it was felt that by allowing non-Indians to obtain possession, the Indians would be inhibited from beneficially using the land. *Congress believed that labor rather than capital was the way to the mainstream.*" (Monroe Price in a public speech, Anchorage, Alaska, June 17, 1966.) Emphasis is mine. E.N.

One purpose of the Dawes Act was to "civilize" Indians by giving them a little land to farm. It was believed that pride of ownership and working the soil would help the Indian adopt white ways rapidly. Land would accomplish what schools and missions could not. But under the terms of the Alaska Native Claims Settlement Act we are now providing not only land, but also capital, and capital is the "way to the mainstream." Land was always the way to maintain "Indianness," though non-Indians didn't realize it. Money corrupts culture in a way the land cannot. Land only corrupts when it is viewed as a commodity, a tool for profit. Such a view is required by the act, and the import of it is clear: Assimilation for Alaskan Natives.

All of the above alternatives for the future are very possible.

Speaking at a public conference called, "Alaska's Land and Lifestyle—1990," Monroe Price, attorney for Cook Inlet Regional Corporation and author of the text "Law and the American Indian," said:

"The act is clearly in the terminationist tradition . . . It was, and still is, looked at as a technique for placing large parts of the state in private hands . . . the non-Native expectation seems to be that lands involved will only be temporarily in Native ownership . . .

"In this sense, the Native Land Claims Settlement Act is the clear descendant of the earliest American approaches to Indian policy. Native occupancy is undisturbed—*until* there is pressure for Native lands."

Unless Congressional action can combine with Native's innate wisdom and survival skills so that ambiguities in the act may be cleared up promptly and the settlement achieved in the fashion outlined in Section 2(d), his assessment will be true—the land will be ours until others want it.

APPENDIX B. INTERVIEWS AND QUESTIONNAIRES

INTERVIEWS

SOUTHEAST ALASKA

1. Saxman
2. Hydaburg
3. Kake
4. Hoonah
5. Klukwau
6. Sealaska Corporation
7. Tlingit Haida Central Council

ANCHORAGE

8. Alaskan Federation of Natives
9. Alaskan Native Foundation
10. Tyonek Native Corporation
11. Bristol Bay Native Corporation
12. Rur Al Cap
13. Land Use Planning Committee

DOYAN REGION

14–15. Doyan, Inc.
16. Fort Yukon
17. Arctic Village
18. Ruby
19. Tanana Chiefs (missing)

BERING STRAITS REGION

20–21. Bering Straits Native Corporation
22. Setnasuak Native Corporation
23. Golovin Village Corporation
24. Unakaleet Village Corporation
25. Kawerek, Inc.

QUESTIONNAIRES

1. Choggung Limited
2. Mendas Chăăg Native Corporation
3. Sealaska Corporation
4. Cape Fox Corporation
5. Kake Corporation
6. Tyonek Native Corporation
7. Deneega Corporation
8. Bering Straits Native Corporation
9. Setnasuk Native Corporation
10. Doyon, Ltd.

Saxman

Saxman is located near Ketchikan and is feeling its expansionary pressures. In fact, Ketchikan has tried to incorporate them a number of times. Approximately 150 people live in the village of Saxman. The townsite of Saxman has about 360 acres. Saxman was founded when the BIA relocated some people from Cape Fox.

Saxman has a city council, an IRA council and a village corporation. The number one concern of the Indian residents of Saxman is how they can preserve the land. Originally, a number of the lots in the Saxman township were "restricted" or free from taxation. However, some lots have lost this status and have to pay taxes. The people were at a loss to explain how the lots lost their re-

page 36 blank.

stricted status. The city council, which is a municipal government incorporated under state law, has 360 acres. It has conveyed over 40 lots to local citizens. Since it is a municipal government, it may not discriminate against non-natives. Therefore, there is no way to keep the land out of the hands of non-natives. It has been suggested that the city council transfer title to the IRA council and the IRA council would hand the land out only to Indians. The problem of the city council giving land to non-natives will be intensified when the village corporation conveys 1,280 acres to the city council. If land goes to non-natives, a checkerboard pattern will be created and council will lose control also over the land. The city council in order to retain control is requesting natives who wish to sell their land to pay the counsil the appraised value.

The village of Saxman is within Gateway Borough and the borough is imposing zoning regulations on the village. 30 homes have to pay taxes to the borough, but it doesn't provide any services. If the taxes aren't paid, they can sell the land at auction. In Alaska FHA has required that land be taken out of restricted status in order to qualify for a housing loan. Of course, the city council can't tax if borough is taxing. The village would like to get out of the borough. City council feels that borough is siphoning off whatever power or control Saxman has. The city council is responsible for water, sewage, fire, roads and street lights, but they get no help. The sources of income to city council are log storage, rent of building, water and sewers, and grants. City council positions are paid for by CETA grant: clerk, city manager, maintenance.

Among the typical development problems facing the city council are:

1. pressure from IHS to expand water system, thereby losing control of it.
2. city council leased out 10 acres for an EDA project—a warehouse—but the developers K&T went into receivership, and so city council somehow lost 6 acres when a letter conveying land appeared with false signatures.
3. need a boat harbor—already did feasability study but no action is being taken.

The Cape Fox Corporation has 191 stockholders, 109 are from Saxman. Cape Fox was entitled to 23,000 acres. They were required to select the worst land and now they are stuck trying to figure out how to generate an income from it. Their land selection is 6 miles out from the village of Saxman. They hope it will have some recreation and timber value. The timber revenue will sustain the corporation. People feel that the only way to retain control over the land is to deed it to the IRA council.

Hydaburg

Hydaburg is a fishing village south of Ketchikan. The present population is about 300, which is an increase over previous years and is due to the city council's vigorous development program as well as ANCSA activities. Traditionally, the people of Hydaburg are fishermen, but the closing of their cannery and the limited entry law has forced them to develop other sources of income. Hydaburg has an IRA council, a city council and a village corporation.

At Hydaburg the city council is both the local unit of government and a vehicle for economic development. Since 1968 the council has reversed the severe economic depression which struck the village with the closing of the cannery through a number of Federal programs under OEO, EDA, HUD, and DOL. Federal development projects as well as ANCSA have caused over 100 people to return to the village. With some imaginative planning, the mayor has been able to schedule Federal projects in the slack seasons in order to assure full employment for the villagers. The city council owns 183 acres; 145 acres are already occupied. They will receive an additional 1280 acres for expansion from the village corporation. The mayor opposes restricted deeds because of heirship problems. The city council provides garbage collection, water and sewers for a charge of $15 a month. The council doesn't tax turnkey houses, but they will receive rents from the proposed EDA industrial park. The council had a sales tax on fuel oil but it is now defunct because the BIA never rebated it. Recently, some positions on the city council such as clerks, city manager, maintenance men, and harbor master have been paid for by CETA funding. However, the council is still in need of a full time planner who can devote his time to processing grant and loan applications, matching grants and administering complex financing arrangements.

The mayor estimated that he had spent $800 in plane fares on one EDA project for pre-application conferences. This project involves five feasibility studies and seven agencies. The major offered two examples of the need for a full time planner given the current method of participating in "federal grantsmanship." Indian finance funds are given only as a matching grant, so that the Indian village must have already received a loan. EDA's method of funding programs and interim financing requires an expertise that few small tribes or villages possess. The village has to borrow the money from local banks for the project and then EDA pays off the bank on a monthly basis. The major thought there were better and simpler ways to safeguard EDA money and that this method of interim financing only benefited the bankers, not Indian people.

The city council believes in self-determination. They want the experience, even of making their own mistakes. They do not want their programs administered by the Tlingit Haida Central Council because they feel THCC has been assimilated by the Federal bureaucracy. They feel that they have been discriminated against in federal programs. The only program administered at the village level is HIP. Particularly in housing, the people feel they could have done better with local control and local contracting.

As for future development projects, the council has planned a commercial smokery, an industrial park, and a cedar products factory.

The Hydaburg Village Corporation has about 570 stockholders, 230 of which live in the village. The corporation will be in charge of managing the timber. They have become members of the Southeast Timber Corporation which is composed of Sealaska and the other village corporations. The Hydaburg Corporation has received $1.5 million to date. They were forced to select 23,000 acres south of the village. They would have preferred an area north of the village which would have contributed to a orderly development of the village. The selected area will not be sufficient for subsistence fishing, especially when state fishing laws are taken into account. There are 100 streams in the Hydaburg area that are normally used by the villagers. If the BLM obtains coastal and stream easements, the exclusive use of these streams would be jeopardized. Since Hydaburg's selection area includes islands, a coastal easement will diminish their acreage substantially.

A large part of the testimony offered by the major and IRA council president concerned past mismanagement of their cannery by the BIA. In later conversations with native leaders, BIA mismanagement of native canneries was one of the most important factors in creating the present corporate structure to administer ANCSA funds and land. The natives wanted to be free of Federal incompetency at any cost—even at the cost of eventually losing their money and land. What follows is a history of the age old BIA-native controversy.

Alaskan IRA councils were created by the BIA to promote business ventures. In S.E. Alaska, since the main industry was fishing, IRA councils usually set up canneries with BIA loans. However, the councils were never allowed to develop any expertise in the actual running of these canneries. With their typical patronizing attitude, the BIA supplied operating funds from their revolving credit fund to the fisherman and cannery alike at the beginning of each season. Likewise the BIA chose the cannery manager. At the end of a good season the fishermen and cannery paid off the loan. If the season was poor, they went further into debt to the BIA. In 1965, after several poor fishing seasons, the BIA unilaterally decided to consolidate 4 canneries: Hydaburg, Matakatla, Klowock, and Kake.

Four canneries and their fleets would merge into two, for a total savings of $25,000 per cannery. None of the IRA council participated in the decision as to which canneries would remain open.

The BIA, without consulting with the Hydaburg IRA council, decided to close the Hydaburg cannery. They instructed the Hydaburg manager not to tell the people that the cannery was to be closed even though they were his employers. When the IRA met with the BIA to discuss the next season's financing, BIA informed them of their decision. The IRA protested but the manager was transferred to the Kake cannery. The BIA demanded payment of a $19,000 loan on the cannery. The IRA could have paid this off but only the manager had the ability to sign checks. Therefore, the BIA declared that the IRA was in default and that the BIA would completely take over the installations including the fuel station. The BIA did not even provide minimum maintenance so that the pier had to be rebuilt in order to lease the cannery buildings some 10 years later. The economic cost to Hydaburg of the closing was considerably more than the $25,000 saved by the BIA.

First, lost wages amounted to $80,000–$100,000 a year.

Second, welfare payments mounted to $25,000 a year.

Third, the facilities deteriorated and necessitated renovations of $900,000 (pier, building, causeway).

Fourth, the army corps of engineers cancelled construction of a break-water due to the depressed state of the village.

Fifth, the village lost a self-help housing program since they had a high rate of unemployment.

The boatowners also suffered economic reverses because they had to fish for the Klowock cannery. They had to repair their boats at Klowock and they were last on the list. When they came in with a catch, the cannery would take Klowock boats first and so Hydaburg boats lost valuable fishing days. The BIA contacted private canneries not to accept Hydaburg fish or to credit such fish to the Klowock cannery.

The BIA then sent a letter to Hydaburg boatowners threatening foreclosure if they didn't fish for Klowock. The Hydaburg fleet declined from 16 to 10 boats. The Batel Institute made a study of the situation and said that since the Metakala and Hydaburg canneries were newer, they should have been allowed to operate, and the Kake and Klowock canneries should have been closed.

There was a hearing in 1966 on the situation, and it was decided that the closing was unjustified. However, 12 years later it is still closed and Hydaburg is in default. The Hydaburg Coop filed suit against BIA in 1974 for interfering with their manager.

The boatowners of the village continue to face economic reverses due to BIA mismanagement and the limited entry law. First, the BIA operates the fuel oil distribution. Often BIA doesn't pay its bills promptly so the oil companies will not deliver. Homes and fishing boats are then without fuel. Second, under the BIA program of financing boatmen, they owe more than the original value of their boat 20 years after the loan. The mayor suggested that ownership of the boats should be vested in the cannery. The cannery can convey a 5 percent interest in the boat each season if the boat fulfills its production quota. In 20 years the cannery could have written off the boat and the fisheries would own the boat. Hydaburg fishermen have been hurt by the limited entry law because they have not been able to obtain enough points to buy licenses. They have not amassed enough points because they fished for someone else, fished in other locations, or fished periodically in the last few years. Also, insufficient points have been given for subsistence activities.

Kake

Kake is a fishing village south of Juneau. The present population is 458. Kake has an IRA council, a city council, and a village corporation.

According to the city council members present, their biggest problem is the lack of electricity. The Tlingit Haida Utility Commission has been unable to get a loan from REA to put in an adequate generator in Kake. Therefore, the village corporation loaned $30,000 to the city council so that THUC could put the power plant in operation. However, other villlages did not have to put up any money in order to get facilities. The electrical system is overburdened and could go out at any moment—it is particularly crucial for turnkey houses since they are dependent on electricity for heat and cooking. Presently, the village spends $1,200 a week on diesel fuel.

The most important project to promote economic development is a break water to make an adequate harbor. In 1965 the Army Corps of Engineers thought it would cost $4 million; now the cost is $15 million. The Corps recommended the breakwater to Congress in 1965 since the value of the fleet merited it. Kake has the second largest halibut fleet in Alaska, but without a boat harbor, the boats have a short life span. In one year alone the villagers incurred $87,000 in boat damages. The breakwater would not only protect the boats but the shoreline as well.

Unlike Hydaburg, the village corporation in Kake is the prime promoter of economic development. Kake has 552 stockholders, of which 437 live in the village. The corporation has received about $1 million from the native fund, $300,000 was spent on administration, $170,000 in the community center, $30,000 in a loan to the city council and the balance in certificates of deposit. The corporation plans to invest $800,000 in a cold storage plant, and to attract $600,000 more in additional funds. The plant would employ between 30–40 people. They have applied to EDA for funding but so far EDA has refused to fund profit-making village corporations. However, EDA said they were interested in funding SANTCO (Consolidated Native Timber Corporation). The corporation also plans a fish hatchery at Hamilton. The Kake cannery will be closed this summer because the state will not allow fishing in the area. The community is in need of a short-term employment program to absorb this unemployment. They also want an arrangement whereby they can harvest subsistence foods.

The village cvorporation has selected 23,000 acres in their core township area. They had little choice of land to select. The land they wanted had already been clear cut with the permission of the forest service, by a logging company just prior to the passage of the ANCSA. It is ironic that the forest service is trying to compel SANTCO to harvest on a sustained yield basis.

The biggest problem the village corporation faces is preserving their lands. When Congress established the Tongass National Forest, it awarded Indian villages townsites. The Indians thought that the land in the village was theirs. However, Gustafson has awarded unsurveyed or unclaimed land within the townsite to be set aside for ANCSA to non-natives. They feel all Indian lands and land adjacent should be "restricted" and under Indian control. In ANCSA 14c(3), it is not spelled out how the land is to be transferred from the village corporation to the city council and exactly how much. They feel the land should be restricted to natives and if the native wants to sell it, it should go back to the corporation.

In order to receive interim conveyance of their lands they have been forced to give easements to the forest service and BLM. If they grant all the requested easements they would end up with 18,000 acres instead of 23,000 acres. They do not want to grant blanket easements but specific easements as the need occurs.

The village corporation faces the possibility of paying a steep capital gains tax on its revenues. They would like to extend the tax exemption into perpetuity. They are thinking of converting SANTCO (Southeast Native Timber Corp.) into a cost corporation with a limited partnership. They will distribute profits or dividends to individual partners and they will pay the tax.

Hoonah

Hoonah is a fishing village which is located southwest of Juneau. The present population is 750, of which 214 are non-natives. Hoonah has an IRA council, a city council, and a village corporation.

The Hoonah city council has 3 non-natives and 4 natives so that the council doesn't always represent native interests. In fact, the city council is considering imposing a property tax on unrestricted land.[1] Some natives will not be able to pay and their land will be auctioned off. Land titles are clouded because the original village burned down and people were relocated irrespective of former claims. People were never informed by BIA or BLM to put in a claim to the townsite land. Now the townsite trustee has been giving unsurveyed and supposedly unclaimed land to non-natives. Gustafson transferred some land to the city council and they will be forced to give it to non-natives if they apply. There is continual pressure from non-natives. In particular a 100 member religious colony has recently moved onto 16 acres of land adjoining the community.

EDA has been funding projects through the city council. The council proposed a dock and cold storage project but EDA could only fund the dock. Now the project is non-operational since it still lacks a cold storage which would employ 30 people.

The village corporation, Huna Totem Corporation has 868 stockholders, of which 547 live in Honnah. The corporation has received $1.2 million to date; $200,000 was spent in administrative costs, $50,000 in local businesses. The rest is invested through Sealaska and the interest on the investments should be enough to run the corporation. However, during the first five years the corporation's time and money have been dissipated in legal battles to get title to the land. Last month the corporation paid $4,000 in legal fees alone. The corporation would like to develop a marina, fisheries, small businesses such as a gas station, motel and grocery stores, but lacks development capital. They are disturbed by the prevailing state and federal attitude that they are "rich natives," when the truth is they have received no land and have very little capital. The corporation has selected 23,000 acres. They were forced to select over the non-natives. Ideally, they would like to convert this land into a reservation so that it can't be taxed or sold to non-natives. They have joined SANTCO to manage and market their timber.

Klukwan

Klukwan is located 110 miles north of Juneau on the Chilkat River. It is on ancient village which is characterized by its scenic beauty and abundant wild life. The present population is about 150. There is an IRA council and a village corporation; there is no city council. The main economic activity is commercial fishing. The villagers are heavily dependent on subsistence activities.

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[1] City council supports itself from the proceeds of a liquor store as well as from revenue sharing.

The Chilkat Indian Village Council (IRA) has never been allowed any significant functions by the BIA. They can hire a lawyer and they have participated in federal revenue sharing. Under ANSCA, the villagers twice voted to retain their original reserve of 890 acres with both surface and subsurface rights.

These rights would actually have been retained by the IRA council. However, under the present IRA constitution, membership is restricted to those who reside in the village and have resided there for some time. This restriction would have left 180 natives with no benefits from ANSCA. Accordingly, some of these natives convinced Congress to amend the Claims Settlement Act to allow Klukwan to become a native village corporation entitled to all the benefits which other village corporations had received (cash plus 23,000 acres).

As a result, Klukwan is to receive 23,000 acres while retaining surface and subsurface rights to their original 892 acres. Klukwan, Inc. deeded over the 892 acres to the IRA council as a pre-condition to receiving the 23,000 acres. The IRA will have to pay property taxes on the 892 acres. The village members can also participate in the distributions from the Alaskan Native funds. The corporation has until January 1977 to select their lands but it appears the state has already selected all desirable lands in their area. The village is left with only the mountain tops to select.[1] Possibly a swap of lands could be arranged between the federal Government and the state to improve the corporation selection.

The village sits on an iron-ore deposit which the IRA council had leased out to Mitsubisi. The lease was negotiated by the BIA, and according to some villagers, the same lawyer represented both sides. The rentals which occured between 1970–1973 are unaccounted for.

Monies from 1973, 1974 and 1975 are presently held in trust pending the outcome of the controversy between Chilkat Indian Village (IRA) Council and Klukwan, Inc.

According to the corporation attorney, the deposit will probably never be developed because of environmental concerns. Klukwan is a bird sanctuary for the bald eagle and a spawning ground for the dog salmon. The attorney thought the IRA council should become a city council to avoid taxation, but then the land would be open to non-natives. Presently, ten non-native families are squatting upstream. They would like to establish a city council. Villagers feared this community would expand to 200 alfalfa farmers. The IRA council said they did not like contracting out to THCC. They complained about the defects of the new HUD housing: fire hazards, defective foundations, plastic pipes. They were also never informed of the cost until they moved in and they were forced to sign an agreement. The village is very concerned over loss of their artifacts. They wanted to know how to protect them. The villagers have lost their hunting and fishing rights. Joe Hotch said he tested whether they had fishing rights on adjacent land by putting his fishing net out. He was arrested but later the charges were dropped. The state has imposed restrictive regulations on the natives while the tourists openly break the rules on limit of fish. Natives must tend their nets continuously. Natives must have a license to transport moose. The fine is $1,500. The natives can cut fire wood only if they pay for a permit.

Statement of Irene Sparks Rowan, President of Klukwan, Inc.

Klukwan, a Tlingit village located 110 miles north of Juneau, Alaska, is the home of the Chilkat Indians. A fierce, proud people, the Chilkats were the most powerful of the Tlingit groups. The source of that power was their economic riches garnered from the lands which they dominated and utilized. The area was a massive one, extending from what is now the northern-most area of British Columbia, Canada, south to Berners Bay, just north of Juneau.

However, despite a history of continuous use of at least 2 million acres, President Woodrow Wilson signed, on April 21, 1913, Executive Order No. 1764, creating an 800 acre reserve for the Chilkat Indians of Klukwan. Two years later, Executive Order No. 2227, established a native sanitarium reserve of 82 acres, two miles from the village.

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[1] See the attached statement for details of this problem.

Executive Order No. 3673, signed by President Warren Harding, reduced the boundaries of the reserve and decreased the acreage to 492 acres. However, on April 27, 1943, the Secretary of the Interior granted additional lands so that the total reserve was comprised of 810 acres. Throughout, the sanitarium reserve remained intact.

In 1946, Public Land Order No. 324 was promulgated, withdrawing 12,800 acres for classification as the Klukwan Reservation. However, a public hearing on that proposal, held in Klukwan on October 15, 1946, produced some astonishing results. In an unprecedented decision by an Indian group, Klukwan refused to accept the traditional reservation concept. The villagers, in lengthy testimony, decried not only the stigma attached to the word but also the fact that they would not be given fee title. Even more important, they catalogued the deficiencies of the designated land which was not the economically viable acreage they had for centuries occupied and utilized. Furthermore, the village inhabitants complained of the small area which was proposed, and clearly and unmistakably laid claim to their traditional lands.

The Honorable J. A. Krug, Secretary of the Interior, on December 9, 1946, approved the recommendations of the hearing officer that the reservation proposal in Public Land Order No. 324 be rejected and that hearings be held to determine the possessory claims of the Klukwan natives. As a result, on May 27, Public Land Order 373 revoked Public Land Order 324 as it applied to Klukwan.

Unfortunately, the good intentions manifested by the Department of the Interior were never pursued. No hearings were ever held and no activity with respect to Klukwan took place for ten years, except for an attempt by mining interests to have the reserve totally revoked.

On September 2, 1957, Congress passed P.L. 85–271, redefining the boundaries of the reservation and granting to the natives the right to lease their land for mining purposes.

In 1971, the Alaska Native Claims Settlement Act, 85 Stat. 688, et seq., 43 U.S.C. 1601 et seq., became law. Pursuant to § 19 of the Act, Klukwan, because of its reserve status, held an election to determine whether the village would retain the reserve lands in fee simple or accept status as an ANCSA village with all the rights attendant thereto. Because of misunderstanding and fear, the election resulted in retention of the fee simple reserve lands and on May 24, 1974, 892,208 acres, including the sanitarium reserve, were conveyed by patent to Klukwan, Inc.

Because of the 1957 legislation which empowered Chilkat Indian Village, an Indian Reorganization Act entity, to lease for mining purposes (the same land which had been conveyed to Klukwan, Inc. in fee simple), difficulties quickly arose. In short, there was a grave question as to who had valid title to what had been known as the Klukwan reserve.

The end result of a complex situation was the passage of § 9 of the Omnibus Act, P.L. 94–204. Pursuant to its terms, Klukwan, Inc., the native village corporation, became a full participant in the Alaska native claims settlement entitled, among other benefits, to select 23.040 acres of land. Chilkat Indian Village, the I.R.A. entity, obtained fee simple title to the 892.208 acre reserve.

The corporation immediately hired the consultants necessary for an accurate selection. The experts retained to determine the amount of acreage available to Klukwan, in its core township, concluded that there was none. A copy of that report is attached hereto marked Exhibit "A".

However, to further complicate the problem, the Bureau of Land Management has recently indicated that a State selection of some 14,000 acres within the core township is to be declared invalid. Thus, a dispute between the state and federal government is imminent.

Studies to determine the quantity and quality of acreage available in the remaining seven townships of Klukwan's withdrawal area were also undertaken. The bulk of Klukwan's withdrawal area has either been patented to, or selected prior to 1969, by the State of Alaska. The areas marked in blue indicate the remaining lands which Klukwan could conceivably select. While it exceeds the allotted 23,040 acres, the average elevation of the area is 5,000 feet. Snow and ice are its dominant features. Parenthetically, it should be added that the same characteristics imbue the 14,000 acres in the core township which, as earlier detailed, are now the subject of a pending federal-state controversy.

But even if the acreage were either comparable to the traditional land of the Chilkats or economically viable, there is another grave impediment to its selection: There is no access. Economically, the construction cost of roads is untenable. Politically, easements would have to be obtained either from a state government which has a decided anti-development bias or from a foreign nation, Canada. The practical result of such a selection would be the acquisition of inaccessible land with no economic value.

The whole purpose and intent of the Alaska Native Claims Settlement Act was to compensate the original inhabitants of the state for their aboriginal claims. The compensation was of two varieties: Title to certain acreage and cash. The payment in the form of land was to consist of acreage comparable in character to those traditionally utilized by the natives.

Klukwan is surrounded by some of the richest land in the state. Undoubtedly that fact was recognized by the state government when, pursuant to the terms of the Alaska Statehood Act, Public Law 85-508, it made the massive selections which it did. Indeed, since 1961, the state has harvested 269,000,000 board feet of timber which sold for prices ranging from $1.00 to $70.00 per thousand board feet. The dilemma is clear: Klukwan's traditional lands have been pre-empted, and nothing comparable has been offered as a replacement.

Klukwan's problem is unique. In the first place, it is a section 16 village and no deficiency land withdrawals for that category were provided. Second, no other village in Southeastern Alaska found itself in a similar predicament because it was either in or adjacent to the Tongass National Forest. Undoubtedly, the massive state selections surrounding Klukwan were also precipitated by the fact that the overwhelming bulk of land in Southeastern is classified as National Forest.

Klukwan must, therefore, once again approach this Committee and Congress for a solution to its problem because conferences with the Bureau of Land Management and the State Division of Lands have proved unfruitful. The B.L.M. is unable to help because there is no authority vested in the Secretary of the Interior to withdraw additional acres from which Klukwan could select.

The Alaska State Division of Lands has vetoed any trade between Klukwan and itself. In the first place, state policy requires a value-for-value approach. In the second, the state feels that when its selection under the Statehood Act is completed, it will have all of the aesthetically desirable land it requires.

It is, therefore, respectfully requested that amendatory legislation, containing the following substantive material, be enacted:

> § 16(e)(1). The Secretary is hereby directed to withdraw 70,000 acres from the nearest public lands in order that Klukwan, Inc., may make the selection authorized by § 16(d). In making this withdrawal, the Secretary shall, insofar as possible, withdraw public lands of a character similar to those surrounding the village and in order of their proximity to the center of Klukwan.
>
> (2) The Secretary shall make the withdrawal provided for in subsection (1) hereof on the basis of the best available information within sixty days of the date of this Act. Klukwan, Inc., shall have one year from the date of this Act to make its selection.

Without such legislation, in light of the attitude of the state of Alaska, Klukwan will have no alternative but to litigate, raising numerous complex questions including the validity of the patents already issued to the state in the Chilkat Valley. Such a procedure will not only be time consuming and costly but might very well have permanent and far reaching effects on land title throughout the state. No one, least of all Klukwan, wants that result. The proposed legislation will effectively avoid it.

Thirty years ago, the federal government recognized that the Chilkat Indians had possessory claim to a massive land area. The Alaska Native Claims Settlement Act sought to compensate for that claim. Today, however, Klukwan is still without a viable area from which to select its lands. No one is to blame because, in the complex process of legislating a solution to aboriginal claims, the problem could not have been foreseen. However, it is now apparent, and Klukwan's shareholders respectfully request your aid in its solution.

EXHIBIT "A"

F. M. LINDSEY AND ASSOCIATES,
Anchorage, Alaska, May 24, 1976.

IRENE SPARKS (ROWAN),
President (Klukwan, Inc.),
Anchorage, Alaska.

MRS. IRENE SPARKS: I have researched the Klukwan core township per your request and have found the following acreages: please refer to the enclosed status plats.

State patented lands:	*Acres*
USS 3708	3, 415. 02
Sec. 29	153. 05
Sec. 30	384. 53
Sec. 31	456. 64
Sec. 32	80. 00
Sec. 34	320. 00
Total	4, 809. 24
River acreage:	
Sec. 30	179. 83
Sec. 31	153. 87
Sec.'s 29 and 30	254. 02
Sec. 33	95. 58
Sec. 34	47. 84
Total	731. 14
Total State	5, 540. 38

Total State selected lands: As per general selection letter 6/16/72 (see attached letter).

Private lands (except Klukwan reserve):	*Acres*
Sec. 30	73. 20
Sec. 31	[1] 28. 69
Sec. 29 and 32	285. 56
USS 948	88. 60
USS 991	103. 67
Total	579. 72
Klukwan Reserve:	
Sec. 32	82. 22
Sec. 33	491. 73
Sec. 34	112. 16
Total	686. 11
Total private	1, 265. 83
Mineral surveys:	
MS 2205	467. 44
MS 2223	40. 03
MS 2206	460. 00
MS 2207	380. 00
M 2193	183. 63
Total mineral	1, 486. 10

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[1] Exact ownership in doubt may fall under State Selection.

Total State patented lands	5, 540. 38
Total State selection	[2]14, 718. 21
Total private	1, 265. 83
Total mineral	1, 486. 10
Total acreage in T28S, R56E, C.R.M	23, 010. 52
Additional amount due to shortage in gross Core Township acreage	29. 48
Total entitlement outside of Core Township	23, 040. 00

If there are any questions on the preceding please feel free to call our office.

Yours Very Truly,

ROBERT T. KEAN.

STATE OF ALASKA,
DEPARTMENT OF NATURAL RESOURCES,
Anchorage, June 16, 1972.

Re: A-060527, GS-1264.

BUREAU OF LAND MANAGEMENT,
State Office,
Anchorage, Alaska.

GENTLEMEN: The State hereby amends the above referenced selection to include all the lands in the following area excluding patented lands:

T. 17-18 N., R. 3 W., S.M.
T. 16-17 N., R. 4 W., S.M.
T. 19-20 N., R. 4 W., S.M.
T. 5 H., R. 8-10 W., S.M.
T. 2-8 N., R. 11 W., S.M.
T. 2-4 N., R. 12 W., S.M.
T. 1-2 S., R. 14 W., S.M.
T. 2 S., R. 12 W., S.M.
T. 4 S., R. 15 W., S.M.
T. 18 N., R. 1 E., S.M.
T. 13 N., R. 4 W., S.M.
T. 28 S., R. 56 E., C.R.M.

Sincerely,

F. J. KEENAN, *Director.*

[2] This calculated figure based on attached letter of amendment from the State of Alaska, dated June 16, 1972, being valid; if not valid total entitlement outside of core township would be 8,321.79.

THCC regards itself as a tribal body and would like to be the prime contractor for 638. However, the area director holds that each village will have to decide who is going to be the prime contractor. Approaching each of the 19 villages on this issue will take an incredible amount of money. Among those who could be prime contractors are (1) a recognized tribe, (2) an active IRA council, (3) tribal leaders, (4) another duly-elected organization. Asking the village to decide will create ill will among the community. The area director is questioning the fact that THCC is the tribal government.

THCC has a CETA contract for $400,000 under title III. However, according to CETA regulations, only Indian reservations are eligible for titles II and VI. Alaskan natives are excluded because of this narrow definition. There is also a problem of defining "unemployment". If seasonal employment is counted, the unemployment rate decreases and people appear less needy.

THCC doesn't like decentralization of federal agencies. They feel that this approach short changes them in that regional offices are unresponsible and slow the delivery down. They are dependent on HUD to finance housing because Alaskan banks don't have access to mortgage credit.

Anchorage Area

AFN would prefer that the prime contractor be the regional non-profit organizations except where a village has proven that it can implement the contract.

Where there is rivalry between the regional and village corporations, contracting will have to be done on a village level.

Hunting and fishing for subsistence purposes is much more important in central and northern Alaska. However, now the natives are competing with non-natives who have planes and so often go empty-handed. This will increase the existing dependency on food stamps. For example, the Nana Region selected the land along the river to assure subsistence fishing. Now BLM wants easements along the river, the control of the resource will be out of the people's hands. Also the caribou move south to the villages. If BLM manages the lands poorly in the north the caribou will never arrive. The problem with D-2 federal lands is that they are between villages. The caribou will begin to hide in D-2 lands. In the Bristol Bay area there were five separate withdrawals from D-2 areas which were not coordinated.

Many village corporations didn't select lands for their productivity or future development but for subsistence use. If they are going to have to pay property taxes on these lands, they might lose them. Also if corporation stock changes hands and a large company controls the Village Corporation they will develop the land contrary to people's wishes.

City councils receive both state and Federal revenue sharing. An IRA council can only participate in Federal revenue sharing.

Alaskan Native Foundation

One of the most difficult problems facing Alaskan natives is the village corporation's need for technical assistance. To date the regional corporations have assisted them in setting up their corporations, making land selections, and investing their funds. Some have even filed village corporation tax returns. However, it is clear that the regional corporations do not have the accounting or legal staff to help every village fight for its land selection or keep their books in order. Who is going to keep track of the stock and the land in order to avoid a morass of future lawsuits? Those village corporations which chose to select their former reserve land are even worse off than other village corporations because they receive little money from A.N. Funds and so have limited access to lawyers and accountants and they are floundering badly.[1] Giving the former reserves the choice between (1) receiving former reserve lands with both subsurface and surface rights (2) or receiving acreage based on population with only surface rights, and participating in the cash distributions, was no choice at all. How can a village which chose alternative number one and which lacks capital develop subsurface wealth? Likewise a village which chose the second alternative will never benefit from subsurface wealth. Either way the village has lost out.

The funds they are now receiving are being eaten up by inflation, legal fees, and fighting government agencies. The natives also suggested one state-wide corporation instead of 12 which would receive only 5 percent of the settlement funds and provide technical assistance to the village corporations.

If regional corporations devote too much of their funds to helping village corporations, they can be sued by their stockholders at large. This makes regional corporations reluctant to provide "services" since they should be profit oriented. So far members of boards of directors of corporations have been unable to buy liability insurance to protect themselves against stockholders' suits. On the village level the corporations could have chosen to become either a profit making corporation or a non-profit corporation. However, most villages chose to become profit-making.[2]

The ANCSA was a termination act which leaves Alaskan natives no way of maintaining their ethnic identity after 1991. Ethnic identity in the lower 48 has been preserved by maintaining the land base over which tribal governments can exercise jurisdiction and control. Without control there can be no social and economic development. Under regional and village corporations there is no assurance that Alaskan natives can maintain control of the land or the corporation itself. Alaskan natives can be easily dispossessed by sale of stock or taxation of land. If stock is sold to non-natives the corporate structure would not insure native control of development that is consistent with preferred lifestyles. The corporation is a new, alien and confusing concept. The corporation is damned if it doesn't succeed and damned if it does. If it doesn't succeed, natives won't receive dividends and so will sell out at low prices; if the corporation is successful there will be great pressure on the natives from non-natives to buy their shares. For example, in the Doyon region, one would need less than $3 million to control the corporation. One could cruise down the Yukon in 1992 asking what the corporation had done for the stockholders. Probably the stockholders would say he had received $100 a year in dividends, $2,000 total. The buyer would then offer $10,000 for his stock and it would be hard for the stockholder to refuse it. At this present rate of dividend payment, it would take the stockholders 100 years to collect $10,000 in dividends. The fact is, no corporation is going to be paying dividends attractive enough to match tempting offers. This is especially true when one considers the short time frame: 15 years is entirely too short to acquire the necessary infrastructure for development. Therefore, it will be extremely difficult for natives to control regional corporations after 1991. A large non-native corporation need buy only 15 percent of shares to have a controlling interest. Even if regional corporations had the first right of refusal, they won't have the capital to pay off the stockholders.

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[1] In the recent Omnibus Bill which amends ANCSA, they were given $100,000 each.

[2] If they had chosen to become non-profit that would have solved the liability problem. Since they would have been freed of the necessity of making a profit and could have created community service enterprises (stores, fish coops, arts and crafts coops). Such native community enterprises might have aided stockholders far more than annual dividends. Profit making corporations often are self-serving in that they expand for expansion's sake, pay their employees high salaries, and their stockholders nominal dividends.

Likewise it will be extremely difficult for corporations to retain their land after 1991 when it will be subject to taxation. If the villages have not been able to develop their land because of a delay in conveyance due in easements or because of lack of capital, the land will not be generating the revenue to pay these taxes. This is especially true of those villages which chose the land for its subsistence value and have no intention of developing it.

If under this corporate structure natives have no way of retaining control of their stocks or land after 1991, why did they consent to a corporate structure instead of a reservation system? Alaskan natives rejected the idea of reservation, trust land, and BIA interference, because they saw the gross mismanagement of the canneries in the SE by the BIA. They felt that they wanted to make their own mistakes. Since the majority of Alaskan natives have always lived in remote villages, they did not feel their ethnic identity was threatened by non-natives. Therefore, they did not lobby for reservations. However, now under the easement policy non-natives will have access to all native lands.

Tyonek Native Corporation

Tyonek was a former executive order reserve created in 1915. It was also organized udner the IRA in 1936. The corporation officials feel they should receive immediate title to the former Moquawkie Indian Reservation because all the original land (27,000 acres) has been surveyed and there are no complications. In addition to the 27,000 acres, they should receive 88,200. They have not been able to get title because of easements. BLM has requested several easements and has even changed the initial easements requested without consulting the corporation. The corporation sees the energy easements requested as impairing the economic well being of the corporation. Presently, the corporation is dissipating their funds in order to get title. They do not want to accept an interim conveyance subject to future easements because they feel that such easements, particularly the energy easements, would be hard to remove and they impair the economic value of the surface estate. They have convinced BLM to drop every request for an easement so far.

TESTIMONY ON BEHALF OF THE TYONEK NATIVE CORPORATION, A VILLAGE IN COOK INLET REGION, INC.

(Submitted by B. Agnes Brown, President and Chairman, Martin G. Slapikas, Executive Director)

Mr. Chairman: We thank you for the opportunity to appear before this committee. Prior to certain developments, we had planned on speaking on just one topic—the status of the former Moquawkie Indian Reservation as it now exists under the Alaska Native Claims Settlement Act. Before we address ourselves to that subject, we would like to point out developments that have occurred involving the Bureau of Land Management that to the Tyonek Native Corporation indicate flagrant violations of the intent of Congress when they directed implementation of ANCSA.

12(a) LAND REJECTION NOTICE

On May 15, 1976, Tyonek Native Corporation received a document rejecting approximately 35,000 to 42,000 acres of Tyonek Native Corporation's 12(a) village land selections which were filed December 17, 1974. Frankly, Tyonek Native Corporation does not understand the rejection notice. A land claims settlement act announcement from the Bureau of Land Management in Anchorage, Alaska, dated October 22, 1974, headlines "No Way to Change Land Selection Application After December 18." We quote from that ANCSA Alert:

"If a village selected lands that were not compact or were not contiguous or otherwise did not meet the regulations, BLM would have to reject that part or possibly all of the application. Villages in this situation could lose part or all of the total amount of acreage which they are legally able to claim."

Needless to say, this concerned the villages in Cook Inlet Region, Inc., who were in the process of land selection. Land in the Cook Inlet Region, available for selection, was not compact and contiguous to each village. The consequences of a mistake could be severe. As a result, contact was made with BLM on December 6th seeking clarification and guidance concerning the manner in which to proceed. BLM reviewed our procedures and documented their advice in a letter dated December 17, 1974. We quote:

"The individual villages may scatter their selections within an area, so long as the total area selected by all of the villages makes up a compact unit."

Consequently, Tyonek Native Corporation's 12(a) village land selections were made and filed reflecting that advice.

Tyonek Native Corporation believes a gross error has been made by rejecting our applications. On May 19, 1976, a letter was addressed to the Director of the Bureau of Land Management in Anchorage. Tyonek Native Corporation asked for "assistance in this matter" and requested "suggestions to solve the problem." Because of the deadlines imposed upon our corporation by the Alaska Native Claims Appeals Board procedures, which would be our next step, an answer was requested by Friday, June 4th in order that a course of action could be decided upon. To this date, Tyonek Native Corporation has not received a response.

On May 21, 1976, representatives of each village corporation in Cook Inlet Region, Inc. met with the Alaska State Director of BLM. We were told that the rejection notices were being dictated by Washington and that they were "probably not" aware of the guidance received in 1974. Tyonek Native Corporation asks "Why not?"

If the rejection notice is vacated, Tyonek Native Corporation can look upon it as a mistake that was rectified, resulting in another delay in processing our application. However, if it is not vacated what conclusions can we draw? Based on difficulties in receiving title to the former Moquawkie Indian Reservation, Tyonek Native Corporation concludes that BLM is more disposal to manage land than it is to convey it, particularly as required under ANCSA. If other Native corporations turn to BLM for advice as Tyonek did in the land selection process of 1974 only to receive guidance that is reversed two years later by BLM's own staff, to whom do the corporations now turn for assistance?

Indications reveal that BLM believes further legislation or the courts are the answer. If this process is the way Tyonek Native Corporation eventually must go, our village corporation will be obliged to spend substantial amounts of time and money to obtain lands that were to be conveyed "immediately" under Section 14 of the Act. The attitude of BLM, as shown in the 12(a) village land rejection notice, concerns us very much. In 1974 there was no reason to believe that the method of land selection used by Tyonek Native Corporation was not in consonance with BLM's regulations. By stating one view through their correspondence and then asserting a conflicting one in the decisions, BLM is not creating a useful working relationship between the village and our corporation.

With that backdrop, we would now like to address ourselves to Tyonek Native Corporation's efforts to obtain easement-free title to the former Moquawkie Indian Reservation and Tyonek Native Corporation's belief that a definite oversight occurred concerning treatment of the reservation under ANCSA.

BACKGROUND INFORMATION

First, the following is background information that we feel is pertinent to our presentation.

1. The Moquawkie Indian Reservation was:

a. Reserved "... for the benefit of Alaska Natives of that region" by Presidential Executive Order 2141, dated February 27, 1915.

b. Maintained, prior to ANCSA, in accordance with the Corporate Charter of the Native Village of Tyonek (A Federal Corporation Chartered Under the Act of

June 18, 1934, as amended by the Composite Indian Reorganization Act for Alaska of May 1, 1936). This allowed exclusive right of access to be determined by the residents of the Village of Tyonek. This was incorporated into the Constitution and By-Laws of the Native Village of Tyonek, Alaska and approved by the Assistant Secretary of the Interior on May 23, 1939.

c. Was surveyed in 1930 (US Survey 1865). The survey was filed with the Territory of Alaska in 1936 and the Department of the Interior in 1939.

d. Was revoked in 1971 in accordance with Section 19 of ANCSA—Revocation of Reservations.

2. In Title 43 of the Code of Federal Regulation (CFR), Sub Part 2650.1—Provisions for Interim Administration, it states, "(a) (1) Prior to any conveyance under the Act, all public lands withdrawn pursuant to Sections 11, 14, and 16, or covered by Section 19 of the Act, shall be administered under applicable laws and regulations by the Secretary of the Interior . . ."

INTERIM ADMINISTRATION OF FORMER RESERVATIONS

In a letter to the Secretary of the Interior, Tyonek Native Corporation requested the laws and regulations concerning the provisions of interim administration under which the former Moquawkie Indian Reservation had been placed. We received documents relating to "Public Lands Withdrawn Pursuant to Section 11, 14, and 16." Tyonek Native Corporation is unable to find the "applicable laws and regulations" pertaining to the interim administration of former reservations "covered by Section 19 of the Act." Tyonek Native Corporation does not believe there are any such regulations pertaining to former reservations. We feel it was the intention of Congress to convey patent to the former reservations as stated in ANCSA, Section 2(b) ". . . rapidly, with certainty, in conformity with the real and social needs . . ." of the Tyonek people. In the case of the former reservation, this has not been accomplished.

Let us presume that regulations do exist concerning interim administration of reservations revoked under Section 19 of ANCSA. Why would BLM issue a notice of trespass served on a lessee with which Tyonek Native Corporation has a contractual agreement? Tyonek Native Corporation, as lessor, is leasing lands on the former Moquawkie Indian Reservation. The BLM issued a trespass on our lessee in June 1974 without our knowledge. We repeat: without Tyonek Native Corporation's knowledge or concurrence. It was not until late in 1975 that we learned of this alleged trespass.

Frankly, Tyonek Native Corporation does not understand why the notice of trespass was served. Tyonek Native Corporation did not request it and we regret that the lessee saw fit to pay it. However, the question remains, why was Tyonek Native Corporation not notified by BLM of a trespass on lands that the village selected under ANCSA? The fact that the alleged trespass occurred on the former Moquawkie Indian Reservation would seem to add further emphasis to that question. Tyonek Native Corporation does not wish to reopen this specific issue. We do, however, wish to point out the inconsistent policy of interim administration of public land as BLM applies it to the former Moquawkie Indian Reservation.

EASEMENT PROBLEMS ON FORMER RESERVATIONS

Tyonek Native Corporation has fulfilled all the requirements to receive patent to the former Moquawkie Indian Reservation. We have: (1) completed and filed a survey of reservation boundaries; (2) selected village status under ANCSA; and (3) filed a village selection application on May 9, 1974. We have still not received patent to the former reservation upon which the Tyoneks have lived since at least 1915. The major reason has been because of a lack of easement criteria on land withdrawn under ANCSA. We feel that easements on reservations were not given proper attention. We hope to prove this by highlighting Tyonek Native Corporation's efforts to obtain easement-free patent to the former Moquawkie Indian Reservation.

Prior to ANCSA the public was not allowed on the Moquawkie Indian Reservation without the permission of the Native Village of Tyonek. This policy was supported and protected by the Department of the Interior in accordance with the Constitution and By-Laws of the Native Village of Tyonek. What easements are now required on Tyonek controlled land after the passage of ANCSA, when the reservation is to remain in the possession of the same people who lived on it before the passage of ANCSA? What criteria calls for easements across the former reservation? Certainly not ANCSA. Order No. 2982 signed by the Secretary of the Interior pertains to "the reservation of easements for public use." There has never been "public use" of the former Moquawkie Indian Reservation. Is it the intent of ANCSA to reserve easements on the former reservation when such use has only been by residents of the reservation and not the general public? Tyonek Native Corporation does not believe it is.

When Tyonek Native Corporation first received documentation concerning the proposed easements, we found that the Easement Task Force Meeting held September 11, 1974 had requested a 100 foot easement through the middle of the reservation on a privately constructed road to provide access to State lands. We could not understand why BLM chose this easement through the reservation when we are bordered on three sides by state lands. The Division of Lands, State of Alaska, agreed with our view point, and consequently, that particular easement was dropped. But it required over a year of effort to succeed.

COOPERATION?

On December 30, 1975, Tyonek Native Corporation received notification of a rerouted Primary Corridor No. 30 that severed approximately 6,400 acres from the 26,918.56 acres of the former Moquawkie Indian Reservation. This came as a complete surprise to us. Previous to that date, Tyonek Native Corporation had relied upon a November 1974 report entitled "Multimodal Transportation & Utility Corridor Systems in Alaska" which recommended a route for Primary Corridor No. 30 that avoided the Moquawkie Indian Reservation. There was no notification that this corridor was to be rerouted through the former reservation. Had Tyonek Native Corporation known about it, we could have pointed out that a negotiated corridor, agreed to by the federal government, state of Alaska and Cook Inlet Region, Inc., was being proposed in the Omnibus Bill, recently signed into law in January 1976. Further, one would expect notification other than a 30 day deadline because of the impact such a corridor system would have on the residents of the former Moquawkie Indian Reservation. But no—only 30 days to reply. One does not receive the impression that cooperation and a free exchange of information exists between BLM and those who rely upon it for assistance.

FLOATING ENERGY EASEMENT: VILLAGE SUCCESS IMPAIRED

As you well know, specific corridor easements were changed to floating easements by the Secretary of the Interior's Order No. 2987. This proposal is anathema to the economic success of our village corporation or any village corporation whose lands the corridor may pass through. A village corporation's survival will depend upon income received from the surface estate of their land. The Secretary's Order allows compensation only though the right of eminent domain in the event of removal or relocation of any structure owned or authorized by the owner of the estate. Section 2 of the Secretary's Order pertains not only to the corridor, but ". . . the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems." Does anything remain for the village corporation?

Where is a village corporation now to expect economic success from the surface estate of their conveyed lands? A financial hardship looms on the horizon through a potential loss of a beneficial economic opportunity. We realize that these easement orders are being debated elsewhere and we do not wish to belabor the subject. However, Tyonek Native Corporation does find it hard to believe that the solution to the nation's energy crisis rests upon the shoulders of the Native Village Corporations in the state of Alaska as indicated in the Secretary's Order. Frankly, we believe that this Secretarial Order is against the intent of Congress.

We feel that these inconsistencies point out that the reservation is not covered under the interim administration of public lands withdrawn under ANCSA. We strongly believe that it was the intent of Congress to convey patent to the former reservations as stated in ANCSA, Section 2(b) ". . . rapidly, with certainty, and in conformity with the real and social needs . . ." of the Tyonek people.

OTHER PROBLEMS

Additional problems that confirm our belief that the status of the Moquawkie Indian Reservation and other reesrvations may have been an oversight in the passage of ANCSA, have surfaced. One is 14(c) reconveyances as they might pertain to the former reservation.

Although the reservations were revoked in accordance with ANCSA, we can find no references to revocation of the Village Corporate Charter of the Native Village of Tyonek. Among other things, the purpose of the Federally Chartered Corporation is "to own, hold, manage and dispose of all village property." Presently the houses, and property on which they rest, are community owned. Is the requirement of ANCSA, as stipulated in 14(c), satisfied by conveying the land to the Village Council rather than to individual tribal members if they so desire? Further, could the fish camps also be conveyed to the Village Council to be maintained as they were in the past under the rules of the Corporate Charter and Constitution and By-Laws of the Native Village of Tyonek?

If 14(c) reconveyances are not satisfied by this possibility it would seem that not only was the reservation revoked but the provisions under which the village corporation was operating were revoked. If so, what agencies now hold the responsibility of the village government? Certainly not the Bureau of Land Management.

If it is determined that the village government has not been revoked by ANCSA can we then presume that the Corporate Charter and the Constitution and By-Laws, as approved by the Secretary of the Interior, are still valid? If so, would this influence the impact of the Secretarial Orders concerning easements on the former reservation?

Another problem that exists concerns gravel within the Village itself. Who is entitled to that gravel? The Regional Corporation, the Village Corporation formed under ANCSA or the IRA Corporation as a governing body of the residents of the former Moquawkie Indian Reesrvation? This is not an abstract problem. Construction of a new addition to the village school requires a solution to this question. Where does the authority of BLM begin or end in a situation such as this? Do they, in fact, have any authority in this situation?

Throughout the Act, reference is made to valid existing rights of non-Natives, and indications are that these rights are well protected under ANCSA. However, when you apply valid existing rights to the former Moquawkie Indian Reservation, Tyonek Native Corporation feels this protection becomes diluted when referring to the residents of Tyonek. It is in this regard that BLM appears to be in a paradoxical situation. They encourage easements across former public lands withdrawn under ANCSA with the general reason that they were public before and the public should have access at least through them if not on them.

Yet, could not that same reasoning be applied to the former Moquawkie Indian Reservation? Exclusive right of access to the former Moquawkie Indian Reservation was allowed by the Department of the Interior through the Corporate Charter and the Constitution and By-Laws of the Native Village of Tyonek. Should not BLM be encouraging this same status and usage as existed in the past? They are certainly attempting to do so with public lands withdrawn under ANCSA. Tyonek Native Corporation believes that all withdrawals under ANCSA are subject to valid existing rights including the former Moquawkie Indian Reservation.

The shareholders and directors of the Tyonek Native Corporation are not naive enough to believe that issuance of the patent to the former Moquawkie Indian Reservation would provide the solution to all of these problems and difficulties that we have brought before you today. Tyonek Native Corporation does believe, however, that a good majority of them would no longer exist if immediate title to the former reservation was issued today.

On behalf of the Tyonek Native Corporation, we thank you for your time and urge your consideration of these problems as they pertain to the former Moquawkie Indian Reservation.

Bristol Bay Native Corporation

Until the 40 million acres are transferred to village and regional corporations, the BLM has interim jurisdiction. They are in effect managing corporation lands until they are conveyed. Under this jurisdiction, BLM can issue rights of way and free use permits.

BBNC accused BLM of looting corporation resources through free use permits for gravel. BLM has granted the state permits to use gravel from corporation lands for Federal highway projects.

The conveyance of land has been held up almost indefinitely by staff shortages and by easements requested by BLM. BLM has transferred people from working on native allotments to working on regional and village land selections. However, before a region or village can have a clear title, the individual allotments must be decided. There seems to be little money for hiring additional staff to speed up the process of conferring conveyances but there is money to build a new BLM building. It is ironic that the Land Planning Committeee is supposed to submit the easements to BLM, but it is happening in reverse because the Committee has even more severe staff shortages than BLM.

The corporations will probably be paying taxes on the land before it is conveyed. The BBNC easement package was given to BLM on four different occasions since the Secretary changed the guidelines on easement twice The BLM is trying to blackmail BBNC into granting easements by denying conveyance until the corporation signs off on easements.

If AIN brings a lawsuit on easements it may cause BLM to stop conveyances. To keep them going, the conveyances should be subject to court decisions.

BLM has also forced BBNC to underselect 10% of the acreage allowed by the Act. BLM has also asked for floating easements which are really transportation corridors which were already rejected by the Land Use Planning Committee.

In the BBNC there are two qualified "groups" that should receive land. However, these groups reside on lands in two townships already selected by the village corporations. While these groups received money as individual stockholders, there are no funds for them to set up a corporation. Without land and funds it is extremely unlikely that these groups will come into existence as specified by the Act.

The biggest problem is getting conveyance to the land and the funds to develop it. If corporations face lengthy delays in getting title, they will not be able to develop the land in time to pay the taxes due in 1991. There should be a 20 year moratorium on taxation starting from the time the land is officially conveyed instead of from 1971. The $1 billion award will be reduced to a value of $250,000,000 by late payments, inflation, and excessive legal fees.

Housing

In Alaska considerable front money is needed to test soils, to plan access, to plan subdivisions. $10,000 is spent on administrative cost, $10,000 on shipping, $18,000 for materials at inflated costs, and only $20 for a Washington HUD design that is inflexible and unsuited to the Alaskan climate.

Rur AL Cap

One of Rur AL Cap's programs is emergency fuel. With the change in life style, many natives have switched from wood to oil for fuel. This creates a problem, since they gathered the wood themselves, whereas they must purchase the fuel and they do not have a steady income. Suppliers also will not extend credit, and insist upon being paid in full upon delivery. Fuel prices vary between $.43 and $2.50 a gallon. Rur AL Cap has recommended legislation to set up $2 million emergency energy loan fund, however, it is frozen in committee. The loan fund would be used to build bulk storage tanks in the villages. There is opposition to this bill because the state doesn't want to fund depressed areas that are poorly managed by IRA councils. There is also a general feeling in the U.S. Congress and in Alaska that ANSCA solved all the natives' problems and that they are extremely wealthy.

Another program is the winterization of homes. Originally $900,000 was requested but this was cut to $500,000. The money is used to stop wind infiltration especially in poorly-designed HUD homes. The problem with HUD is that houses are designed in D.C. or Seattle with no local input, or as one Rur Al Cap put it, "Progress is a frame house which is not suited to environment."

This is just one more example of the federal agencies' collective refusal to recognize the uniqueness of Alaska. Millions of dollars are being spent on federal programs which only create new problems instead of resolving the original ones.

Land Use Planning Committee

The problems in the Implementation of the Act are inherent in the Act itself. First, the time constraints are too tight. Second, there are no guidelines. The Commission doesn't have sufficient staff to prepare easements and so they have given this job to BLM. BLM figures out easements and submits them to LUPC, but LUPC's role is merely advisory.

As for the requests for continuous easements as compared to periodic, the state asserts that it is vitally necessary for coastal development and for access to the beach.

The procedure for deciding easements should take 90 days.

1. from BLM to village corporation 45 days.
2. from village corporation to commission 45 days.

Doyon Region

Doyon has incurred considerable legal costs because of the vagueness of some provisions of the Act. There has been litigation over the definition of compact and contiguous land and over who can be enrolled. Probably the most serious oversight is the definition of "revenue" in 7i. It is gross or net revenue? The Secretary has not attempted to resolve this difficulty and is letting the corporations enter into litigation when it could be resolved administratively. Some corporations have spent what the others consider revenue to be shared, while other corporations have put their revenue in escrow. Mr. Sackett said he would rather not have revenue sharing because of the difficulties in monitoring every corporation's accounting system. Furthermore, the corporations are going to be less anxious to develop marginal land if they have to share the revenue. Some land development isn't worth the effort or cost if it has to be shared. So far, the 12 regional corporations have demonstrated no real unity, and they have concerned themselves with small problems rather than addressing the larger ones. This has encouraged an attitude of taking care of one's own corporation and forgetting the others.

To date Doyon has invested in a building, a construction company, an oil operation, a surveying company and a bank, along with 5 other corporations. There are also a number of companies exploring for minerals on Doyon land. Mr. Sackett was concerned about the oil reserve tax—this will force corporations to develop whatever resources they have and if they don't have the capital they will have to lease the land to others. Presently, the state is trying to capture revenues through reserve taxes, severance taxes, and wind fall taxes. The period of inalienability of stock is too short. They should extend the period so that the native stockholders can reap the benefits of the corporation's development.

Doyon had helped village corporations in the land selections, in setting up their corporation, and by investing their funds. Doyon recently helped the villages organize a management corporation to supply technical assistance since Doyon faces a conflict of interest in this role.

The interior is more isolated than the coastal regions and the people are very dependent on subsistence hunting and fishing. Villagers need access to D-2 lands for subsistence hunting and fishing. Some villages might prefer subsistence over development.

Mr. Timmie didn't think immediate conveyance of the land was their most serious problem, except for certain critical areas. Doyon's position is to accept interim conveyances and fight easements later where obtaining title is essential for a corporate purpose. They do not want BLM to stop conveying land because someone has taken them to court over easements.

Alaskan natives will probably have to pay property taxes before 1991, because the state wil declare the land to be "developed." The state might consider the land developed if it had any improvements at all, such as a road or a house. As regards the present tax on undeveloped oil, the state will have to prove that the reserve exists and can be transported to market. This tax was enacted to get at the Prudhoe Day oil, which is estimated at 9 billion barrels.

The main problem with the village corporations is that they have little money to develop. They have no funds for accountants, lawyers, planners. They need to set up income producing activities. However, they face the possibility of getting into investments that will strip them. Doyon has tried to inform people of what their alternatives are. Doyon was instrumental with others in establishing Interior Village Association to assist village corporations in routine business matters.

As far as Doyon's development activities, the corporation made a conscious decision to ask an independent oil company to explore for oil, rather than a major company, because they feel they got a better deal.

In regard to stockholders selling out in 1991, they would like to see the stock tied up. But that would be unfair to the stockholders since their stock is an asset they should be able to sell. Anyone could buy 10–15% of the stock and control the corporation. Possibly the corporation should try for the one-man, one-vote system used extensively by farmer cooperatives; this would require change of Alaska corporation law.

One of the biggest problems is the attitude of the federal government. They seem to like to play games—for example IRS has not answered corporation requests for information. Interior is playing a negative role in the implementation of the Act concerning easement, conveyances, 7(i), and enrolling people under Omnibus Bill. There are still no applications printed to handle that enrollment. Enrollments close January 2, 1977.

Other officials such as Norm MacPhee thought that Doyon had exceptional operating expenses for legal services, geologists, etc., land surveying. With these it is hard to build up retained earnings and 7(i) will force a high rate of dividends, aggravating the problem. So far they had not been able to buy directors' and officers' liability insurance to deal with stockholder suits.

In looking over the land selection maps, Bill Standard showed how the Doyon corporation had been forced to select townships around the village core township in a checkerboard pattern. This makes control of the land extremely difficult. Checkerboarding provides access to state, federal, and private lands so that easements across natives lands make even less sense.

Yukon

Fort Yukon located in the Yukon River Northeast of Fairbanks. It is a service center for the interior. Originally, it was the collection point for the fur trapping trade. Present population is around 500. It offers the local and hinterland population many services: 2 large retail stores, schools, court house, police station, and a TV station. Most people combine pipeline work, local construction, fishing and hunting to make a living. People of Ft. Yukon do not want roads since they enjoy their isolation. Ft. Yukon has a city council, an IRA council, and a village corporation.

The city council has six native members and is financed by a sales tax, by state and federal revenue sharing ($40,000), and by the proceeds from a liquor store. Mr. Carroll felt that all revenue sharing should be direct and that nothing should pass through the state. State revenue sharing declined from $20,000 to $1,900 within one year. The city council has not received EDA money or CETA money. Both programs are difficult to apply in Alaska because of unrealistic regulations, particularly administrative cost limitations. The city employs a manager, a clerk an accountant, two policemen, and three TV operators. The total payroll is $80,000. Utilities are provided by a private company. Fuel oil storage and distribution is owned and operated by Chevron. Both the city council and corporation are reluctant to take over fuel distribution because they feel that Chevron would not continue to deliver. The city council will receive 1,280 acres from the village corporation and there is little fear that this land will pass into the hands of non-natives. The BIA is not accepted very well in the interior. Most interior villages would like to do their own contracting because they feel they have been discriminated against by the BIA.

The village corporation has 737 stockholders, of which 415 live in the village. The corporation has received $1.3 million and has $1.0 million invested through Doyon Corporation. The remaining funds have been invested in a retail store and a city council building in Ft. Yukon ($350,000), and in a building in Fairbanks ($25,000). The corporation is considering buying an airline. They would like to develop their resources, oil and timber, through joint ventures because they have insufficient capital (note: Subsurface rights belong to Doyon Corporation). Their land committee selected their 167,000 acres for their timber, oil, and traditional subsistence value. Since they have chosen their land for its subsistence value, they are concerned about how they will pay future property taxes. Since they have no immediate land development planned, they were less concerned with immediate conveyance than were other communities. They would like to have access to D–2 lands for hunting. Mr. Carroll estimated that 25 percent of their diet depended on subsistence activities. BLM has asked them for trail and river easements. The river easements would affect hunting because they hunt the river beds. Another problem for the corporation is its inability to get liability insurance. No one will insure them, not even Lloyds of London, because they feel the natives have too much money and too little experience.

The city manager, Mr. Carroll, is also head of Tanana Chiefs Housing Authority (TCHA). The Authority is currently building 85 units throughout the Doyon region. Mr. Carroll complained of Washington regulations such as housing specifications which make little sense given the climate of the interior. Even though Mr. Carroll has made design modifications he seems to be more successful in staying within cost regulations than is Tlingit Haida Central Council. The average cost of a house in Ft. Yukon is $35,000 as compared to $62,000 for SE Alaska. He was also critical of the financing system in that the Seattle office hadn't sold enough bonds and that construction was halted due to lack of funds. The TCHA puts together the work force in each village to construct the homes. Mr. Carroll also complained about the purchase of appliances for the housing. He has proof that certain government officials were allowing dealers to over-invoice. He had cancelled orders on occasion and bought from a cheaper source. Mr. Carroll thought that HUD prototype costs for Alaska were unrealistic.

Arctic Village

Arctic Village is the northernmost Indian community in Alaska. It is located in the foothills of the Brooks Range, north of Fairbanks. Arctic Village was part of the Venetie Reservation. Population is approximately 120. Their only connection with the outside is by air. There is limited running water and electricity. There is a BIA school, a church, and a clinic. A doctor comes every couple of months. Arctic Village has an IRA council and a village corporation.

The IRA council is the local governing body. It qualifies for Federal revenue sharing. They would receive $300, but this small amount is not worth filling out the forms, specially if someone had to travel outside for legal assistance. The IRA is considering incorporating in order to get state revenue sharing. To date the IRA has received practically no development assistance from the federal government. They haven't received any funds from EDA, HUD, DOL or Indian Finance Act funds from BIA. They did receive a $40,000 SBA loan to build a community store. They recently installed washing machines in their 10 year old community building. The machines were paid for by the rental of their tractor. The state has provided some assistance under their Rural Development Program. RDP has paid for materials for small projects such as repairing the tourist lodge. Salaries were paid out of mainstream funds (DOL?).

The Village corporation has about 150 stockholders who were the enrolled members of the village when it was a reservation. The villagers complained that under ANCSA there was no possibility to keep their lands in trust. They were offered the choice between owning the surface and subsurface rights to their original land (1.3 million acres), or relinquishing subsurface title, receiving an amount of acreage based on population and participating in the native funds; they chose the former. Under either alternative the land is held in fee patent. They were recently included in the amendments to ANCSA and will receive $100,000 for expenses incurred under ANCSA. Arctic Village typifies the extreme financial problems facing villages ANF described to the Task Forces. They have no funds to hire technical assistance or make physical improvements. The $100,000 they will receive is grossly inadequate to defray the legal expenses involved in securing title, let alone setting up a village corporation to plan the development or protection of their land. According to the village members, their land has recreational potential; possibly there is oil. Again there are no funds for a resource inventory. Their relations with the Doyon Corporation are strained because Doyon wanted to form a partnership but would not advance them any money. Consequently, the village would not ask for or receive help now. So far village and corporation members have spent money out of their own pockets to travel to negotiate on ANCSA and to obtain government programs (note: it cost task members $285 an hour to travel to and from Arctic Village—thus the cost of transportation is almost prohibitive). Since they have difficulties in working with outside groups they would prefer to administer any program directly. The village corporation is not sure it wants to develop any land because they chose surface and subsurface rights to preserve their land for traditional activities. Like Indians in the lower 48, they feel the land is important for the survival of the people. The question is, how will they pay land taxes after 1991 in order to retain control of the land? What will they do when individual natives sell their stock and non-natives take over the corporation? Control over their lands is only assured for the next 15 years. Presently, they don't even have interim title because of the BLM's policy to ask for blanket easements. Now they hunt on their lands when they need to, but they also need access to D-2 lands in order to meet subsistence needs.

They would like to control hunting and fishing on their lands. Most of the villagers have no steady cash income and are dependent on the caribou for at least two-thirds of their protein diet. They do receive food stamps which supplement this. There are approximately ten full-time jobs in the village, but some are held by outsiders.

The village corporation has been visited by a number of developers. For example, a timber company wanted to do an inventory and build a road. Ironically, they have very little timber. Wells Fargo Bank also offered to manage their investments but they have no capital.

Ruby

The native village of Ruby is located on the Yukon River, west of Fairbanks. In 1931, it was a booming gold mining town of 500 people. By 1950 there were 250, now there are about 150, most of whom are Alaskan natives. The village shows signs of being revitalized by their hard working city council and village corporation. There was a traditional native council but it merged into the city council when it was formed. The main problem both institutions face is lack of funds to hire full-time employees to carry out the daily business of filling out forms and waging legal battles with BLM. As in other villages some of the same people serve on the city council as the village corporation. They feel as if they are subject to conflict of interest. Two of the 7 members of the city council are non-natives. About ten non-natives live in Ruby. There are no sewers and limited electrification; most people have their own generators. There is no tax base for the city and their only ordinance is for garbage disposal.

The villages were disturbed at the BLM notice in the newspapers asking for citizens to identify easements. To the people of Ruby it indicated that after five years the BLM was in the first stage of land selection and that land conveyance was a long way off. Furthermore, the BLM had just drawn arbitrary lines on the map for easements with no knowledge of the land so that the corporation didn't know if these proposed easements were final or not. The corporation feels that it is better not to grant blanket easements because they will never get rid of BLM or outsiders. The corporation hasn't thought about land development because they are still trying to get title to the land.

To date the corporation has their funds invested through Doyon, though they did use some funds in the land selection process. Doyon also did their tax returns. The concept of a corporation is new, foreign and confusing. They feel that they have had to learn more in three years than most citizens learn in twenty. Previously, they had free use of the land and so the idea of private land ownership hasn't yet sunk in. The people don't think they will develop the land, so hopefully there will be no land taxes prior to 1991. After 1991 they will have to sell the poorer land if there are taxes. They would like undeveloped land to be tax exempt. As for the ability to sell stock after 1991, most people felt that it would be sold by non-resident stockholders since these people would be more interested in the money than in preserving land, which is the preference of the resident stockholders. The people also feared that corporation stock would be lost after 1991 for bad debts, liens and welfare claims. Conceivably, the state could end up a major stockholder if welfare recipients were forced to turn over their assets.

They felt that the community would be opened up to non-natives if there were oil and gas exploration or if a road from Anchorage to Fairbanks were completed. If roads are constructed, hunting would diminish. If the proposed easements are accepted, non-natives would have automatic access. Presently, most people exist on a mixture of fire fighting and pipeline work, commercial fishing in summer, subsistence hunting and fishing and food stamps. Very few have full-time jobs. Among them are road workers, 2; store clerks, 2; post office, 1; and teachers, 5.

The people of Ruby are faced with a dilemma:

1. road=development=influx of non-natives.
2. no road=no development=no employment=no non-natives.

The area around the village is good farm land for wheat, barley and potatoes. They would like to develop these lands. The corporation could set up a joint venture or lease the land out. They will probably develop it in conjunction with the regional corporation since it will be on a large scale and they don't have the capital.

Bering Straits Native Corporation

Land specialist, Ms. Hemnes, complained that the Corporation had been held to a very tight schedule in making land selections; however, the BLM was not even adhering to a time table. Land conveyances have been held up indefinitely due to lack of BLM guidelines over easements. This delay has stopped all development and most corporations feel that they cannot wait. Among the more objectionable easements are coastal easements. Bering Straits has 18 villages on the coast. Such a blanket easement will be detrimental to their livelihood. Under a state law, fishermen must be 300 feet apart. If non-natives have free access, they could intrude on accustomed fishing spots; in the worst case native and subsistence fishermen would have no place to go. In the case of St. Michael's there is an easement around the entire island. The corporation particularly questions why native lands are receiving different treatment in Alaska from the treatment given private land in the lower 48. Their lands should be conveyed first and then they will negotiate easements with just compensation. If blanket easements are given, it will diminish the original 40 million acres given by Congress, seriously undermining the intent of the Act. Again the recent BLM ads in the newspapers urging citizens to stake out easements shows that BLM is in stage one of the easement process when easements have been under discussion since the fall of 1973. Furthermore, the Corporation feels that the Secretary's recent orders do not conform to Section 17b on easements of ANCSA.

The corporation selected their lands for their possible mineral wealth (florite, beryllium, tungsten). There was a lot of existing information on the area since Nome is a mining area. The village corporations made their own selections, but the regional corporation indicated possible mineral wealth to them. The villages will be dependent on D-2 lands in order to continue their subsistence activities.

The regional corporation employed village corporation coordinator who helps them prepare their budgets and invest their funds. A viable development opportunity for village corporations is business development such as fish co-op, retail stores, and fuel storage.

The village corporations have also made a number of high risk loans to native stores. These native stores were formerly financed by the BIA revolving credit loans. Under ANCSA, native funds are not supposed to substitute for pre-existing federal programs; however, it is clear that in this case, capital substitution is occurring, that is, native capital is being substituted for BIA capital. The coordinator felt that loans to native stores was an interim activity for the village corporations. He admitted that the interest rate was lower than the return on certificates of deposit. The village corporations have also invested in a credit union so that their stockholders can get loans. The village corporations have bought out existing businesses and backed fish co-ops. This local community-oriented investment was justified by the fact that it assured more native control over the local economy and that it increased the economic well-being of its stockholders.

IRA councils in the region have performed certain profit activities such as backing stores and reindeer herds. However, the councils are presently the tools of the BIA under 638. There is a real question whether each village council can be a prime contractor. This would increase the administrative costs and BIA doesn't have the funds. It is probably better that some villages band together for a central administration. If Kawerek, Inc. received the funds, they would go farther and be better spent. Kawerek is the non-profit arm of Bering Straits.

The biggest problem B.S. Corporation faces is the conveyance of land. In some cases there is no reason for the delay. For example, St. Michael's was a former reserve and has been surveyed. Under the Act, the lands lost their trust status and are now public lands under BLM until they are transferred to the village corporation. Since BLM has control, it has been impossible for the village to limit the influx of people to St. Michael. The government told the natives their lands would be private. However, the government is refusing to apply the laws and procedures that usually govern private lands. Why not use the same laws that apply to easements in the lower 48? Floating easements and energy easements are grossly unfair since they are without compensation and will affect future economic development.

The "7i" revenue sharing provision of ANCSA is a good thing. AFN has attempted to set up a Commission to receive "7i" monies. There is no agreement yet on how to define "7i" monies, but in the end such a mechanism will keep regions together and they will know each other better. However, the largest source of "7i" revenues is mineral wealth or non-renewable sources. At the present time mineral resources are taxed so heavily that there would be very little revenue to share.

Mr. Trigg thought that in time some village corporations would merge due to lack of capital and management personnel. Mergers on a regional level might be 10 to 15 years down the road. When asked why the village corporations chose to be profit instead of non-profit, Mr. Trigg thought the emphasis on profit corporations had come from Congress.

Bering Straits Native Corporation has $45 million in business assets. They have formed the Alaska National Bank, they have invested in a truck transport company, a cement business, a construction business, trailer sales, and a coastal barge line. Of the $24 million received from the native fund, $9 million was invested in these businesses and the remainder is in banks. Mr. Trigg expressed the hope that B. S. Corporation would be in good shape by 1991 so that the stockholders wouldn't want to sell or would sell to the Corporation first. One goal of the Corporation is to generate as many jobs in the region as possible through their enterprises. This might also influence the stockholders not to sell out the Corporation. Presently, the B. S. Corporation is training men through their non-profit arm Kawerek, Inc. Last year they were the largest minority employer in the state. The B. S. Corporation has no position on whether gravel is surface or subsurface. In any case, they favor free use of gravel for village projects.

Mr. Trigg felt that the survival of Alaskan natives depends on their land. The government gave them 40 million acres and now is trying to figure out how to get it back. The influx of non-natives is a threat to subsistence activities. Due to competition with non-natives, the length of the seasons has been cut down. There is a moratorium on seal and walrus—a hunter is limited to five seals. Some reindeer herds are in D–2 lands and if natives are not allowed to use D–2 lands they will have no place to graze the reindeer.

Sitnasuak Native Corporation

The Sitnasuak Native Corporation is the largest village corporation in the Bering Straits region. It has 2,049 stockholders compared to BSNC, 6,918. It is the village corporation for Nome. Nome was founded during the gold rush days of the last century and has been destroyed a number of times by fire and high tides. It has practically no shipping facilities, only 4 barges arrive each year. Today the main sources of employment are government, mining, tourism, and services. Almost everyone in town engages in subsistence activities to supplement their income. Most of their cash incomes goes to buy fuel. Present population is 3,000, of whom 80 percent are natives. Many villagers move to Nome in the winter and back to the village in the summer. About half of Sitnasuak's stockholders live outside of Nome so it has been difficult to obtain a quorum for meetings or even obtain enough proxies.

The city of Nome has a city council. Half of the council members are non-natives. The townsite for the city of Nome takes in 525.45 acres. It has no place to expand because it is surrounded by patented mining claims. The village corporation is reluctant to convey 1,280 acres to the council.

Instead the village corporation would like to establish another municipality and relocate the city in order that the natives hold on to as much land as possible. One of the difficulties of the Act is that it was written for rural villages, not urban villages such as Nome.

The village corporation has received $3½ million to date; $600,000 has been invested in business and the rest is invested (long term) with a bank. The corporation prefers investments in the local area to build the local economy as compared to the region. Among the business ventures are investments in the credit union, in a native store, in office space, in stocks of a cement operation, in construction of houses, and apartments, and in real estate in Nome. Other possible economic activities to be developed: residential leasing, apartment buildings, reindeer herds, and tourism. So far development is being held up by the BLM's not conveying the land. Since Nome is an urban area, the future tax burden on land will be heavy because the city and borough will have to provide certain services. There is a possibility that taxes may force land development, but alternatives to selling of land are being researched. Undeveloped land should be tax exempt. Conservationists and native groups would probably support this. There is a real divergence of interests between villagers and non-villagers. It is possible that at least 30 to 40 percent of the stock will pass to non-natives after 1991 (based upon present corporate procedures). The corporation should have the first option to buy and when someone dies the stock should be awarded to the children born after 1971.

The corporation was entitled to select its 212,480 acres from a withdrawal area of 480,462 acres. However, in this 480,462 acres, 525.45 acres belong to the city of Nome, 33,000 acres are patented mining claims, 16,000 acres are unpatented claims, and 5,000–7,000 acres in native allotments. The top priorities for chosing land were mineral development, subsistence use, coastal use, and transportation. 110 miles of existing roads which amount to 2,666 acres, were already in existence before selection took place. However, BLM has requested over 30 easements. The corporation feels that corporation land is being classified inconsistently to suit the federal government's purpose.

For the purpose of easements it is "native" land to be taken for the asking, without just compensation. For tax purposes, it is private land which should bear its fair tax burden. The regional corporation told the BLM not to approach them on easements until the Department of Interior guidelines were out. Any easements are bad because development of resources within an easement is restricted. BLM also has limited finances to manage the land asked for under easements. Presently the corporation has entered into agreements to lease rights of way on their lands. The leasees are liable for all taxes. They have developed a leasing policy for campsites. All campsites are limited to 10,000 square feet and non-stockholders must pay. According to the corporation land specialist, the Minerals Leasing Act says that gravel is a subsurface mineral.

Golovin Village Corporation

Golovin is an Eskimo fishing village southeast of Nome. It is located on one of the best natural harbors on the western coast of Alaska. There is speculation that the state will put in a deep seaport. In the old days the village was the site of a herring plant and served as a gathering point for miners. When the miners left, the natives settled in the area. About 125 people live in the village. There is a grammar school and a public health clinic. There is a fish processing plant and a fish cooperative of 40 boats. Men from the surrounding villages of Elim and White Mountain participate in the fish coop. The annual number of salmon caught has been running about 55,000 (1973–74–75). The fish processing plant is being expanded with a loan from the village corporation and from the State Rural Development Agency. Besides fishing, the villagers hunt migratory game such as duck, bear, caribou, and pick berries on the lands surrounding the village particularly around Fish River, which is out of the village's land selection area.

In Golovin there is a city council and a village profit corporation. A seven-man city council was recently formed and it absorbed the traditional native council. There is a mayor, vice-mayor, secretary-treasurer, clerk, and policeman. The latter two are paid out of revenue-sharing ($9,000 per year). The city council also leases space for a BIA classroom and the P.H.S. clinic. However, the council provides utilities for the classroom and clinic, and with the increase in the price of fuel oil it is losing money.

City council employees have received training from Kawerek, Inc. Both village funds and CETA funds are used to pay the local policeman $200 a month. The council has ordinances against liquor and dogs. They have no legal counsel.

The members of the village corporation couldn't remember when they had voted to have a profit corporation instead of a non-profit corporation. There are 171 stockholders: 121 lives in the village and the remaining 50 live in Anchorage or the lower 48. The corporation has received $240,000 from the fund to date. At least 50% of this was invested in the Bering Straits Investments Company. They can withdraw this money at any time. They estimate they are earning 10% interest. They also loaned the fish plant $10,000. Administrative expenses for the corporation run about $20,000 a year. There is a part-time general manager and secretary. The board receives compensation for travel and per diem. They use the Bering Straits lawyer. They have selected 69,000 acres with the help of the regional corporation. The land was selected on the basis of subsistence use: berry-picking or hunting.

They need more land to maintain their current level of subsistence activities. 80 percent of their protein comes from subsistence activities. They were not able to claim the best land for hunting due to the compact and contiguous requirement of the Act.

They feel that the lands they chose are worthless, mountain tops. They felt it was unfair to give them worthless land and that when the Act was passed it was a sorry day. They hope some of their mountain tops have minerals (but subsurface goes to region). They chose some land at the mouth of the harbor which they can probably lease out. The BLM has asked them for trail and coastal easements. Coastal easements will create a problem for the village fish camps. The members had not thought about future taxation of corporation lands or future sale of stock by natives.

Housing

The city council applied for ASHA housing and received 10 units under a self-help program. Recipients constructed the houses by their own labor. ASHA charges the recipients between $13 and $85 a month depending on income. Later the city council received an additional 10 units under a BIA program. They have had difficulty in completing 5 of these homes because the BIA wage is $6 an hour compared to PHS's $10. Recipients of these houses own them outright and pay nothing.

Unakaleet

Unakaleet is a large Eskimo fishing village on the western coast of Alaska, southeast of Nome. It is also situated on a delta of the Unakaleet River. It has been inhabited for thousands of years, according to the local Eskimo leaders. It was a former BIA reserve encompassing 830 acres before the Act. Population varies between 600 in the winter and 1,000 in the summer. The village has close ties with the surrounding villages of Stebbins and St. Michael's.

Like Golovin, there is a fish processing plant and a fish coop. The plant was recently purchased by the village corporation from an individual who defaulted on his debts. About 100 men participate in the fish coop. As in Golovin, the inhabitants engage in subsistence hunting in their areas, ⅔ of their protein diet is dependent on subsistence activities.

Unakaleet has a city council, an active IRA council and a village corporation. Unlike other villages, they have a coordinator for the 3 entities. The members said that it would be a lot easier just to have one group. Now each group has different responsibilities. The IRA council participated in Federal revenue sharing until 1975, obtained fuel storage facilities under RDA, invested in the fishery with a SBA loan in 1964 (plant was wiped out by a high tide), obtained water and sewers through PHS, and TGDP grants of $12,000 and $52,000. The IRA also has a musk ox farm through a Kellogg grant. The IRA formerd a fishing coop with a $50,000 business grant under Indian Financing Act. IRA also runs a native store with loans from BIA Revolving Loan Fund. The store also has a $400,000 (?) loan from SBA. The dynamism of this IRA council is largely due to its leadership.

Currently, the IRA council is looking at some joint ventures with other villages. They are particularly interested in starting a fish hatchery and would like advice on how to go about it. The council members present felt that the community should contract directly for services and programs and should decide how to spend their money. They are very much aware that they are competing with 200 other villages for benefits. With all the regulations for various programs they can't be run by volunteers. The city council was formed in 1975 and the transfer of funds and functions from the IRA council has not been smooth. The village formed the city council in order to gain control over their own affairs; the state did not recognize IRA ordinances. The city council is eligible for state and Federal revenue sharing. They lost state fire protection and funds for recreational parks because of lack of information and failure to show that they had spent village funds on these items. Since they were just formed they couldn't show that they had spent funds.

According to the members of the village corporation they have 841 stockholders. To date they have received $1.3 million, half of which has been invested in local ventures and half in Bering Straits Investment Corporation. They have no certificates of deposit. Their basic philosophy is to develop first what they have nearby. Accordingly, they gave a $265,000 loan at 6½ percent to the fish coop which the coop has made loans to 100 members for repairs and supplies, they bought a skow, they have taken over the fuel distribution franchise. Non-locally, they have invested in the Bering Straits Native Corporation cement venture. They have invested in the IRA native store. The store is affiliated with a purchasing coop in Seattle which is used by 40 other native stores in Alaska. In the future, they would like to build an apartment complex for the high school teachers in Unakaleet, they would like to invest in Anchorage real estate. They feel that the state is going to push off the social services on the village corporation.

The village corporation members as well as the council members were concerned about the future of their subsistence activities. The lands they have selected, 160,280 acres, are not sufficient for subsistence. They need access to D-2 lands. They also oppose the proposed easements because they feel the land should be conveyed with no strings attached. The land they were allowed to select was selected according to traditional use. There is a possibility that the Unakaleet River will be named a Wild and Scenic River, and this would diminish their hunting in that area.

They would like to develop their land in a controlled fashion. It has recreational value because it is scenic and affords sports fishing. They are in no rush to develop their lands and feel as if they are being forced into the capitalistic system. They feel that if they are forced to pay property taxes, they will lose the land. They would like the tax exemption extended.

Among the laws which threaten their subsistence activities are the migratory bird law. It interfers with customary spring hunting. The Marine Mammal Act limits the income which native families can obtain from seal skins. There is a restriction on the number of seals allowed, and on the time of year they can be taken. The seal population has multiplied under such protection and has started to pose a threat to the fish. Those villagers who engage in commercial fishing are not allowed to engage in subsistence fishing during closed periods. Some villagers are not able to catch enough fish for families' subsistence needs. The limited entry law has helped the local fish coop and fish processing plant by excluding non-natives from their fishing area. Since the village had a long history of continuous fishing, not many people were excluded.

Among the recommendations for amending ANCSA were:

1. land tax exempt for 100 years,
2. native allotments should receive restricted title (they will),
3. the village corporation or IRA should have the opportunity to buy native allotments if they are offered for sale.
4. they would like to restrict the sale of stock after 1991 to natives or the village corporation, and
5. they would like stock issued to children born after 1971.

Kawerek, Inc. (non-profit arm of Bering Straits Coropration)

Mr. Madden said that the corporation was in considerable financial difficulty due to recent expansion which was based on unrealistic cost estimates. Administrative cost are high because transportation is expensive in the region. Travel is limited entirely to charter planes. Also it is extremely difficult to keep trained personnel because as soon as someone is trained they leave for higher wages elsewhere. Help turns over every four months.

One of the largest programs is job training under CETA funds. These funds, especially title III and VI come through the state, which takes an administrative cut. It is necessary to use at least 18 percent of the funds for administration at the corporation level. In the Nome area even 30 percent would be more realistic. Job training in the city has been unsuccessful (25 percent completion rate). However, in Kawerek's local program the completion rate is 75 percent. They are training surveyors, truck drivers, carpenters, mechanics, clerks, plumbers, and heavy equipment operators. Recently, Kawerek combined DOL and BIA money to start a program to train commercial fishermen. They purchased seiners to go after bottom fish. There is also a job bank under CETA funding. Kawerek also started a savings and loan association. They have 1,200 members. The savings and loans has some unique problems due to seasonal employment and the dependence on subsistence activities. The savings and loan accepts payments in kind and periodic payments as compared to regular. They recently lowered their delinquency rate from 26 to 17 percent. EDA recently gave them a planning grant to do OEDP's for the villages. Kawerek is trying to promote cottage industries and would like to start a tannery for seal skins so that natives could capture increased value in the commercial market. Now the natives must have their skins tanned before they can make native garments. They applied to hte BIA for business grants for arts and crafts. They need money for marketing.

The arts and crafts program has raised the price for native craftsmen. However, there is a need to convince the craftsmen to concentrate on the most saleable items.

Kawerek also operates the Nome Receiving Home for children 6 months to 18 years and the Boarding Home. Both of these programs are a serious financial drain on Kawerek.

Some of the financial strain at Kawerek is due to the difficulty in complying with federal regulations for programs. Contracting is always on a reimbursable basis. After Kawerek contracts for a program usually some of their costs are disallowed. Kawerek tries to get as much of the funds advanced as possible in order not to shut down the program. The regulations for filing applications are also burdensome. Applications have been rejected because they were filled out in black ink instead of blue or were stapled in the wrong place.

QUESTIONNAIRES

CHOGGIUNG LIMITED, P.O. BOX 247, DILLINGHAM, ALASKA NO. 99576

Question 1. What is development?

Answer. Excellent question. It depends on the view of the looker. In this case ANCSA has determined that it is the utilization of village lands in such a manner as to increase the equity of each village shareholder. This is all out development proposition and though the Act speaks of subsistence it mandates that one way of life must die so that another can live.

Question 2. Is there a particular kind of "development" which is best for your people?

Answer. Sure. A wise judicious utilization of resources for these purposes which recognizes all the values of the land including cultural, historical, habitat and the other non-economic values and gives them equal weight in the decision process.

Question 3. How is the tribal council promoting this development?

Answer. The directors of our development are a board of 9 members who act like any profit corporation board of directors. They are putting together a resource inventory of village selected lands and hope to make their development plans consistent with all resource values. The hitch comes when you realize that profit is the basic goal.

Question 4. What government agencies or private institutions are promoting this development?

Answer. The major builders in our area are the transportation agencies—Aviation and Highways. The BLM supports their role. This is because our major resource value is gravel. Our timber does not rate private attention and only our fishery habitat can be declared extremely valuable.

Question 5. What are the most important obstacles to your development?

Answer. The Bureau of Land Management will not convey the land to us to manage and they do not have the time or interest to manage it themselves. As a result, the management of lands selected by natives falls into limbo and little progress can be made.

Question 6. How can these obstacles be removed?

Answer. Congress must force BLM to pay as much attention to disposal of the lands charged to their management as they do their own land management responsibilities. To date they have minimized their disposal role and the result is native lands are in legal never-never land.

Question 7. What programs or laws would best promote development or remove the obstacles to your development?

Answer. A program to emphasize disposal of village selected lands by the BLM. A program of technical assistance and grants for the development of land management programs. A program that increased potential for native kids to become land managers, biologists, foresters, etc.

Question 8. What kind of protection do you have for your resources? Please include any codes enforced by the tribal government.

Answer. BLM has control now but they have a trespass officer for 200 million acres and thousands of miles. Our protection today depends on inaccessibility and remote location, an advantage that fades rapidly. If village lands could be developed, they could support closer monitoring, but until BLM acts we have no power. Our board has land use rules and processes but our ownership is so limited by BLM inaction little can be done.

Question 9. Does the BIA provide adequate resource protection? If not please explain.

Answer. No, we have no direct contact with BIA resource protection programs.

Question 10. Who is the principal offender in depleting or damaging your resources (State, private corporations, local non-Indians, others)?

Answer. State and private groups now work through the BLM, so they are the greatest enemy. However, local population growth has led to more and more local trespass, and while the land can stand some abuse, unless we gain control and develop a management program, we will be eaten from within too.

Question 11. What do you think the American Indian Policy Review Commission should be doing about reservation and resource development and protection?

Answer. Encourage education programs to develop native land managers. Develop systems for resource inventories on native lands that recognize non-economic values too. Force the BLM to promptly convey native lands so we may escape this limbo status.

Note: We would like to know how your returns on this inventory have gone. We are a village corporation created under ANCSA and some of the questions oriented to TRIBES do not quite fit our situation. However, we answered as well as we can and would like to know what other folks think also.

MENDAS CHAAG NATIVE CORPORATION—SUBMITTED BY
MS. MARGARET KIRSTEATIER, VILLAGE COUNCIL PRESIDENT

Question 1. What is development?

Answer. Our Council sees development as pertaining to our people. To be free from Dept. of Interior interference and restrictions to develop resources from our land in such a way as to benefit our people. Directly improving our economic position of poverty to a level of our non-Indian neighbors.

Question 2. Is there a particular kind of "development" which is best for your people?

Answer. Our people wish to develop our resources as stated above and, at the same time, retain our traditional customs. For those who wish to retain subsistance life style from the land, give susistence resources a priority for development.

Question 3. How is the tribal council promoting this development?

Answer. As in the past the Dept. of Interior has not conveyed our land to our people. We can do *nothing* regarding development of protecting subsistence resources until Dept. of Interior (BLM) gives patent to our land.

Question 4. What government agencies or private institutions are promoting this development?

Answer. There is no Indian development on our land at present. Due to delays in BLM conveyance, no development or protection of resources has been given our land in the past of all. Much of our timber has been sold to non-natives by BLM to state of Alaska without any benefit to our village.

Question 5. What are the most important obstacle to your development?

Answer. Conveyance to patent of our land, BLM restriction to native development, fish and game laws—these give no protection from non-natives hunting on our land, and making proposed public easements across our land.

Question 6. How can these obstacles be removed?

Answer. Possibly by combined pressure and lobbying by our Regional Corporations on federal and state levels. Expensive court action toward Dept. of Interior for protection of resources upon our land and early conveyance of patent to our land.

Question 7. What programs or laws would best promote development or remove the obstacles to your development?

Answer. Technical, legal advice—money to hire legal aid to take action against Dept. of Interior and BIA to protect our land, resources and rights to be protected against trespass on our land and resources. Self-help programs with expert advice.

Question 8. What kind of protection do you have for your resources? Please include any codes enforced by the tribal government.

Answer. BLM and BIA have given no protection *whatever* to our allotments, land or resources despite protests and claims filed in good faith in 1917–1934–1950 with Dept. of Interior. Native allotments have been trespassed on resources sold, given to non-natives, burial grounds patented to white men for recreational sites, and timber sold by the state of Alaska. BLM has ignored formal requests to remove non-natives trespassing on our village selected land as well as native allotments. Our people are poor and cannot take legal action.

Question 9. Does the BIA provide adequate resource protection? If not, please explain.

Answer. In past as our records show, BIA Realty Dept. has failed to protect our allotments from trespass, passing the complaints on to BLM.

Question 10. Who are the principal offenders in depleting or damaging your resources (state private corporation, local non-Indians, others)?

Answer. State in past—with eviction notices given to our people to cease all occupancy and use of our village lands. State sales of our land to others. BLM sells our lands, including burial grounds to whites and local non-natives, who trap and hunt game on village lands.

Question 11. What do you think the American Indian Policy Review Commission should be doing about reservation and resource development and protection?

Answer. To persuade Congress to remove jurisdiction of *Indian lands* from *Dept. of Interior* as well as social services and education. Start a Dept. of Indian lands and social and economic services run by Indians. Federal laws with teeth, to protect Indian resources and land. Make laws which Indian tribes, bands and villages could use to bring suit against BLM and BIA for neglecting to protect Indian lands in past.

SEALASKA CORPORATION, 811 W. 12TH, JUNEAU, ALASKA

Question 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. Approximating the land usage around each of the listed villages plus Juneau, Sitka, Ketchikan, and Wrangell we would estimate 2,900,000 acres of intensive use. Actually the whole of SE Alaska—24,000,000 acres—have been used to some extent.

a. Do you feel that the land which you will select approximates this amount?

Answer. No—the natives of SE Alaska will select approximately 500,000 acres for fee ownership. (276,000 for villages and urban corporation—remainder Sealaska).

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Assuming the land not selected remains in the National Forest, the existing subsistence activities will essentially remain the same insofar as land ownership is concerned.

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. Yes.

Question 2. a. How many of the 40 million acres awarded have been selected?

Answer. As of December 18, 1975, all 38 million acres allotted to village corporations and Interior Regions had been selected. Additionally the four urban corporations have selected their 92,160 acres; approximately 250,000 acres of allotments have been selected; and a number of Cem. and Hist. sites.

b. Has there been any delay?

Answer. Selection progress acceptable—Statutory requirements. However, Interior's issuance of "interim conveyances" (patents) stretches the definition of "immediate" beyond reasonable interpretations.

c. What effect will these delays have on your corporation?

Answer. Inaction by Interior re: Easements, navigable waters, etc. General procrastination and resultant loss of rights. (See newspaper ad re: easements).

d. How many acres has your corporation selected to date?

Answer. If Sealaska experiences the same delays as the village corporations, we will be delayed over a year in start-up of our timber operations.

e. What percent is this of the total to be selected?

Answer. Approximately 2,000 as Cem. and Hist. sites. All Sealaska productive acreage comes from miscellaneous entitlement with December 18, 1977 deadline for selection.

f. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Answer. Not really applicable—Sealaska will be entitled to select approximately 200,000 acres in addition to Cem. and Hist. sites.

Question 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

Answer. Most native corporation land is SE Alaska and presently outside a taxing entities boundary. Eventually these lands will probably be leased and/or developed and taxed by the state if nothing else.

b. Do you think that the regional corporation will postpone leasing or development until after 1991 because of such taxation?

Answer. No—however, any development must return a high enough yield to pay taxes and show a substantial profit.

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Answer. 1991 should have no affect on SG Nation Corporations.

d. Do you think that after 1991 the regional corporation will be forced to sell land which has been put into production or leased in order to pay land taxes?

Answer. See answer 3(c).

e. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Answer. Definitely—unless Federal government begins to pay taxes (or in lieu payments) commensurate with its land base. Even after all state and native selections, the U.S. will still own 80 percent of the Alaskan land base.

Question 4. a. What will be the impact of state lease hold taxes on the development of corporation resources?

Answer. Resource development will not take place until and unless the return on investment is sufficient to pay all costs—including taxes—and still show a profit.

b. Do you intend to impose taxes on resource developers or corporation lands?

Answer. Corporations have no taxing authority.

Question 5. a. What impact will land taxes have on village corporations?

Answer. In S.E.—probably little impact due to valuable surface resource (timber).

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. Probably not—obviously, we must continue to monitor state legislative taxing proposals.

Question 6. a. Do you think Alaskan natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. Alaskan natives are citizens and as such have a taxing responsibility—both income tax and real estate tax. However, some method should be developed to allow any person to leave his land undeveloped and not be taxed into a position of "develop the land or lose it."

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. Major problem if the surface resource is not an economic base. Unless some relief is found all private land owners will be forced to develop or sell their land to avoid losing it to taxing entities.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. Definite possibility under existing law and conditions.

Question 7. a. Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. Yes. Much of these occurred with the coming of statehood to Alaska.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. Alaskan native's hunting and fishing rights did not change "in fact" with passage of ANCSA. Existing state laws allow for subsistence hunting and fishing. Watch D-2 legislation for an impact.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. Very speculative question. If corporation is a "going" concern natives won't want to sell. Large corporations may seek to buy from stockholders because of resource and land base.

b. What is the possibility that the shares will eventually pass to non-natives and the control of the regional corporation to non-natives?

Answer. Possible. Other factors pertain. Conveyance of patents. If corporations receive intended payments on time, can then establish plan to retain control in 1991.

c. How can Alaskan natives retain control over regional corporations after 1991?

Answer. Buy back stock from those shareowners who want to sell. Keep such stock as voting stock controlled by the corporations. Education of all stockholders and discuss the issue now!

d. After 1991 do you think Alaskan natives should be given preference to the regional corporations in the purchase of their shares?

Answer. Yes.

e. Do you think it would be advisable that at least 51 percent of the shares should be owned by Alaskan natives in the regional corporations?

Answer. No stipulation should be placed on percent of shares to keep from downgrading value. However, natives should still retain control in some manner.

Question 9. a. What rights or claims to corporation resources do Alaskan natives' children have that are born after 1973?

Answer. Shares of stock inherited from parents or other shareowners; otherwise—none.

b. Do you think they should have been provided for? How?

Answer. Yes—but couldn't answer how. The shares of corporate ownership represent land which is now owned by others. Just as land does not multiply to provide equal shares to future generations, so shares representing land are also a constant.

Question 10. a. How does the regional corporation plan to develop its resources?

Answer. Timber and mineral operations will be developed by the corporation on its own or in joint venture with others.

b. Will it lease out the land to be developed?

Answer. Probably not—Sealaska wants to be an operating company.

c. On what conditions?

length of lease,
rent, royalty payments,
methods of monitoring extraction, and
provisions for environmental protection, reclamation, preference in employment.

Answer. NA at present. Control important feature of all of our ventures.

d. Will it set up joint ventures? If not, why not?

Answer. Possibly—depending on whether the other partner can offer something Sealaska can't obtain on its own. But we retain control.

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

Answer.—Resource development will be by the corporation. Environmental suits and legislative efforts have been troublesome.

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil Agreement?

Answer. Possibly, but this is not preferred by us—now. We prefer at least a joint venture relationship.

g. How is the regional corporation going to protect itself against the great pressure from non-natives to exploit the non-renewable resources?

Answer. Most pressure to develop resources will come from within corporate stockholders. Last annual meeting—motion to "get into business". Non-natives such as Sierra Club, will most likely try to slow development.

h. What conservation measures has the corporation adopted for renewable resources?

Answer. No specific measures as yet. Intend to practice best current forest management methods to protect fisheries and other resources.

Question 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

b. What have you done with the funds?

Answer. Distributed to village corporations and stockholders and invested.

c. At what rate have any been invested? Where?

Answer. Prevailing rates in government obligations and other instruments. One acquisition.

d. Have you invested any in developing your resources?

Answer. Some preliminary studies—no major capital outlay to date for resource development. Timber has largest potential. Intensive studies underway.

e. If not, do you intend to?

Answer. Yes.

Question 12. a. Are you aware of the financial problems of the state of Alaska?

Answer. Yes.

b. Do you think that these financial problems might affect you?

Answer. Yes. As state looks for revenue sources the Native Corporation are very visible and available. Our enterprises may be taxed.

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

Answer. BLM is withholding unreasonable easements and in essence blackmailing corporations to agree with easements or take a substantial additional delay in receiving interim conveyance.

b. Do you feel that you should grant rights-of-way at this time?

Answer. Certain R/W are necessary for public access and will be useful to the corporation in the future.

Question 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Answer. Easement Blackmail—Nav. Water. General dissatisfaction with Interior. The Department has not fulfilled its role of Indian advocate. Erosion of worth of money due.

Question 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

Answer. I am concerned about 1991, at which time Native Corporation stock will be alienable.

CAPE FOX CORPORATION, STELLA HANSON, SECRETARY

Question. 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. Need a survey on this.

a. Do you feel that the land which you will select approximates this amount?

Answer. Depends.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. No. I believe that Sealaska has taken a good survey on the sites and the corporations could protect the land which they could make a profit on, if they want to. (Totem Pole sites)

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. Yes.

Question. 2. a. How many of the 40 million acres awarded have been selected?

Answer. We received (corporation received) 23,040 acres of land; what about the lands we selected an find after it is already non-patented (taken), which isn't our fault.

b. Has there been any delay?

Answer. When a corporation has to wait until the person is available and because it takes time to figure out the best spot, where better growth of timber is and for the future, we needed outside advice such as Sealaska to assist us. Therefore I feel there was a delay.

c. What effect will these delays have on your corporation?

Answer. Some delays are caused by our Board of Directors having to make a living too and working out where it was hard to meet, at times. So a quick meeting for an important subject would be done in about 1 or 2 hours.

d. How many acres has your corporation selected to date?

Answer. Delays could cause a loss.

e. What percent is this of the total to be selected?

f. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Question. 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

Answer. If any other business leases the land and it has to be taxed or you have to pay taxes for it, then the taxes should be included in the lease so that the business itself pays the taxes.

b. Do you think that the regional corporation will postpone leasing or development until after 1991 because of such taxation?

Answer. No, but I hope they hurry things up a little. More since they do have intellegent managers there to help us to develop some type of business for us and not keep it idle.

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Answer. The regional corporation should have a 20-year program so this wouldn't happen to us. It is our land and we trust Sealaska to not get us in debt.

d. Do you think that after 1991 the regional corporation will be forced to sell land which has been put into production or leased in order to pay land taxes?

Answer. As an individual with 100 shares from Sealaska Corporation, I feel that my land should be clear of debts such as taxes when I have it in 1991. It wouldn't be fair to put the tax burden on an individual then. Seems that the federal government gave us the land and it should be under trustee so we would be clear from taxes.

c. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Answer. Naturally, this would cause a state tax burden since no income comes in from national parks and only those who are involved in oil reserves would benefit by this.

Question 4. a. What will be the impact of state lease hold taxes on the development of corporation resources?

Answer. We already know the state is going to try us as soon as we sell our timber.

b. Do you intend to impose taxes on resource developers or corporation lands?

Answer. Who's asking the question? We are a corporation here in Saxman.

Question 5. a. What impact will land taxes have on village corporations?

Answer. Very technical question. Beyond my intellect. Need an attorney for this.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. This (village corporation or who?) has to be included in the business to eliminate the future problems. Why can't land be in trust?

Question 6. a. Do you think Alaskan natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. No. I believe we would definitely have social problems because we wouldn't be equal. We just had well signed up for a reservation otherwise.

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. Probably BIA could help us to protect an individual; they can lease the land to interested people for campground cabins for a five year lease or whatever the owner agrees.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. No. They can get protection by their city council or corporation if so desired for a continued business unless they would rather sell it for money because they may be too old.

Question 7. a. Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. Yes. We can't hunt on our own land. That's ridiculous.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. This has been going on for a few years now. I thought the people were used to the state and Federal laws.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. Half of them will sell their land since money will sound good to them—especially the older people since they feel they want to have an easier life.

b. What is the possibility that the shares will eventually pass to non-natives and the control of the regional corporation to non-natives?

Answer. All depends on the spouse.

c. How can Alaskan natives retain control over regional corporations after 1991?

Answer. By selling their land.

d. After 1991 do you think Alaskan natives should give preference to the regional corporations in the purchase of their shares?

Answer. Yes.

e. Do you think it would be advisable that at least 51 percent of the shares should be owned by Alaskan natives in the regional corporations?

Answer. Yes.

Question 9. a. What rights or claims to corporation resources do Alaskan natives children have that are born after 1973?

Answer. None, unless they were one of the beneficiaries under a corporation. If they are beneficiaries and end up having land they would have the benefit of working on the land or investing. If they so desire.

b. Do you think they should have been provided for? How?

Answer. Through Tlingit and Haida as long as they were one-quarter Tlingit and/or Haida. I guess they did have to set a specific date somewhere.

Question 10. a. How does the regional corporation plan to develop its resources?

Answer. Through timber for one.

b. Will it lease out the land to be developed?

Answer. Don't know. Seems to me they should start investing in their own business and to lease a portion accordingly with a feasible and of years.

c. On what conditions?

Answer. Length of lease; rent, royalty payments; and provisions for environmental protection, reclamation, preference in employment, a certain percentage.

d. Will it set up joint ventures? If not, why not?

Answer. Yes. I believe so.

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

Answer. Not sure.

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil Agreement?

Answer. Not sure.

g. How is the regional corporation going to protect itself against the great pressure from non-natives to exploit the non-renewable resources?

Answer. I believe through their attorney—not sure.

h. What conservation measures has the corporation adopted for renewable resources?

Answer. By a 20 year program.

Question 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

b. What have you done with the funds?

c. At what rate have any been invested? Where?

d. Have you invested any in developing your resources?

e. If not, do you intend to?

Question 12. a. Are you aware of the financial problems of the state of Alaska?

b. Do you think that these financial problems might affect you?

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

b. Do you feel that you should grant rights-of-way at this time?

Question 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Question 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

KAKE CORPORATION, KAKE, ALASKA—ALBERT DAVIS AND CLARENCE JACKSON

Question. 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. Goldsmith Study does into resources used (1974).

a. Do you feel that the land which you will select approximates this amount?

Answer. No, and we had no choice in National forest. We had to move our boundary to north. The land we wanted already had been cut by a private logging company. Before the ANCSA was past, the forestry service allowed commercial companies to come in and log everything off. Now they hold us (SANTCO) to a sustained yield basis.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Our resources were disrupted long ago. This is a small island, and in 1968 200 people from logging company came and shot all deer.

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. Yes.

Question 2. a. How many of the 40 million acres awarded have been selected?

Answer. Ask Sealaska.

b. Has there been any delay?

Answer. There have been delays due to fact village corporation has been asked to grant easements. We told BLM and Forestry that we didn't want to grant easements.

c. What effect will these delays have on your corporation?

Answer. We cannot start land use planning; nor can our joint timber corporation begin operations until we have title to the land.

b. Do you think that the regional corporation will postpone leasing on development until after 1991 because of such taxation?

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Do you think that after 1991 the regional corporation will be forced to sell land which has been put into production or leased in order to pay land taxes?

d. How many acres has your corporation selected to date?

Answer. 23,000. These include the original townsite, as well as an addition for the sea area.

e. What percent is this of the total to be selected?

Answer. 100 percent. However, we do not have title to any of this.

f. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Question 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

c. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Question 4. a. What will be the impact of state lease hold taxes on the development of corporation resources?

b. Do you intend to impose taxes on resource developers or corporation lands?

Question 5. a. What impact will land taxes have on village corporations?

Answer. Would like to avoid any land taxes since state will impose heavy taxes. Also worried about capital gains tax—trying to get around this in SANTCO case by creating a limited partnership whereby profits distributed directly to partners and they pay income tax.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. Unclear at this time.

Question 6. a. Do you think Alaskan natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. Alaskan natives have paid taxes since end of WWII and they don't mind paying such taxes. However, they do not feel that the village corporation should pay income taxes on land claims money or on money that originates from resources that were given in land claims. If Congress allowed them to retain certain resources why should the state be allowed to tax them away?

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. He won't be able to.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. Yes, we would like to prevent that by having a restriction on his title. If a native wants to sell land, it should go back to village corporation.

Question 7. a. Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. Yes, but there should be some way of assuring us use of our subsistence foods; that is foods we have traditionally used. Presently some have high commercial value because they are Japanese delicacies. The state therefore regulates their use—natives should be exempt from such regulations in order to allow home consumption.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. Regulation of commercial fishing has forced the closing of our cannery this summer. Some areas have been closed off from fishing and since there will be no fishing nearby, we had to close down. 60 to 80 people will be out of work.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. They will sell them—however, given the other problems we have with land selections and easements we have not given this too much thought.

b. What is the possibility that the shares will eventually pass to non-natives and the control of the regional corporation to non-natives?

Answer. Yes.

c. How can Alaskan natives retain control over regional corporations after 1991?

Answer. Possibly through an amendment giving the corporation first option to buy.

d. After 1991 do you think Alaskan natives should give preference to the regional corporations in the purchase of their shares?

Answer. Yes.

e. Do you think it would be advisable that at least 51% of the shares should be owned by Alaskan natives in the regional corporations?

Answer. Yes.

Question 9. a. What rights or claims to corporation resources do Alaskan natives' children have that are born after 1973?

Answer. None.

b. Do you think they should have been provided for? How?

Answer. Possibly; however, how are we going to impose some limit on the number of people eligible?

Question 10. a. How does the regional corporation plan to develop its resources?

Answer. Ask Sealaska.

b. Will it lease out the land to be developed?

c. On what conditions?

- length of lease
- rent, royalty payments
- methods of monitoring extraction
- provisions for environmental protection, reclamation, preference in employment

d. Will it set up joint ventures? If not, why not?

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil Agreement?

g. How is the regional corporation going to protect itself against the great pressure from non-natives to exploit the non-renewable resources?

h. What conservation measures has the corporation adopted for renewable resources?

Question 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

Answer. Ask Sealaska. $1 million; spent $300,000 on administration; spent $170,000 on community center.

b. What have you done with the funds?

Answer. Invested them in Chase Manhattan, NY through Sealaska.

c. At what rate have any been invested? Where?

Answer. See Sealaska. 8 to 10 percent.

d. Have you invested any in developing your resources?

Answer. We have much less than $1 million to invest now. We will use $300,000 for our cold storage plant in order to attract $600,000 additional funds in matching grants and loans. The cold storage plant is essential for employment in our community. We have been unable to get funding from EDA because we are a profit-making corporation and would compete with other operations. Yet they are going to fund SANCO which is profit-making. It is clear that EDA is making arbitrary decisions. We cannot use our lands as collateral for loans. We haven't approached Chase Manhattan for a loan. We are also going to loan city council $30,000 for electrification. We are investigating a fish hatchery. We object to RCF regulations which state that we are eligible only if everyone else has turned us down.

e. If not, do you intend to?

Question 12. a. Are you aware of the financial problems of the state of Alaska?

Answer. Yes.

b. Do you think that these financial problems might affect you?

Answer. Yes.

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

Answer. Practically everyone—Forest Service, BLM—they are holding up our land selection until we agree—if we grant them we will only get 8,000 acres of our original 23,000 acres.

b. Do you feel that you should grant rights-of-way at this time?

Answer. We will grant them in the future as they are needed and they can compensate us for the land.

Question 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Answer. Delay in land selection due to pressure to grant easements. Vagueness in how land is to pass from village corporation to city council. Interference from Gustafson on who will control 1,200 acres conveyed to city council. Non-native claims within township. Easements asked by BLM, Forest Service.

Question 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

Answer. Change taxation provisions. Give control to village corporation over land. Give first option to buy shares to village corporation. Arrangement whereby allowed to gather subsistence foods. Stop easements that BLM and Forestry are obtaining from Secretary of the Interior.

TYONEK NATIVE CORPORATION, 445 EAST 5TH AVENUE, MARTIN G. SLAPIKAS, EXECUTIVE DIRECTOR

Question 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. Since 1915, approximately 27,000 acres. Before 1951, the Tyoneks migrated North from Tuxedni Bay to their present location on the former Moquawkie Reservation.

a. Do you feel that the land which you will select approximates this amount?

Answer. Selection of former Moquawkie approximate acreage traditionally occupied by Alaskan natives in village of Tyonek.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Yes. State patented land, surrounding the Moquawkie Indian Reservation on which the village is located, is not available for selection. If it was, it would allow for an excellent land consolidation program. Consequently, Tnc must select lands grant distances away from the traditional living area. Traditional subsistence activities take place on adjoining lands.

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. At this time I do not. Although the state of Alaska may not feel that way.

Question 2. a. How many of the 40 million acres awarded have been selected?

b. Has there been any delay in your land selection?

Answer. Yes. Generally the 3 party negotiated settlement between Cook Inlet Region Inc., state of Alaska and federal government has delayed the specific 12(b) land selection for our village corporation. Obtaining patent or interim conveyance to the land selections is another matter. BLM states that the lack of easement criteria was the general reason for delay. The status of the former Moquawkie Indian Reservation is preventing patent from being issued. Tnc is seeking easement free patent to the former reservation. BLM states that the former reservation is now a public land withdrawal. They (BLM) are continually seeking public input in order to justify easements across, and on, the former reservation that was private up to the passage of ANCSA on Dec. 18, 1971.

c. What effect will these delays have on your corporation?

Answer. Dissipation of village corporation monies from Alaska native fund for legal expenses to secure easement free patent to former Moquawkie Indian Reservation.

d. How many acres has your corporation selected to date?

e. What percent is this of the total to be selected?

f. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Answer. Not really. If they properly filed and can prove usage under ANCSA they will get it. The major problem is agency requests through BLM for what many corporations feel are unnecessary easements. Because of the huge amounts of land and their diversification, I feel that the adverse possession principal may pose a future problem.

Question 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

Answer. Presumably, that would not pose a problem if leased to third parties for profit. I would hope that taxation would be considered in the final contract. After December 18, 1991 all real property interest will be taxed. Could definitely be a problem if investments do not cover the taxation.

b. Do you think that the regional corporation will postpone leasing or development until after 1991 because of such taxation?

Answer. I would hope not.

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Answer. General—Depends upon their financial and economic structure. TNC hopes to be in a position of not being "forced" to do anything.

d. Do you think that after 1991 the regional corporation will be forced to sell land which has been put into production or leased in order to pay land taxes?

Answer. Yes, many of them will. TNC hopes not to be in that position.

e. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Answer. Hopefully, through industries such as gas and oil. The remaining land may not have to bear that excessive tax burden.

Question 4. a. What will be the impact of state leasehold taxes on the development of corporation resources?

Answer. Unable to answer at this time.

b. Do you intend to impose taxes on resource developers or corporation lands?

Answer. I would not call it a tax. We do hope to charge a fee for such development. Particularly subsurface development through the leasing of surface estate to the required support facilities.

Question 5. a. What impact will land taxes have on village corporations?

Answer. If the small village corporations do not take advantage of mergers and pool their resources many will go under.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. Sell or lease.

Question 6. a. Do you think Alaskan natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. Only insofar as it pertains to ANCSA. Exemption of land taxes should be extended for as long as it takes the federal government to issue patent to land. The federal government was unprepared, or unwilling, to convey land without "riders." Consequently it is taking a lengthy period to come to get set up.

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. This may not be a problem. Paragraph 14c of ANCSA guarantees conveyance for various reasons. I believe that the nature of Alaska and the attitude of regional or village corporations may prevent his land from being taxed.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. Possibly, though I doubt it.

Question 7. a. Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. Yes. However this was the case before the passage of ANCSA.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. They will have to abide by the rules. Limited entry is already an example of this situation.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. Pressure for options to purchase shares will increase as 1991 draws near. Ultimately, large financial interests will buy the individual shares until such time as corporate control is in their hands. From then on corporate resources will be at the disposal of the new board elected by the controlling stockholders.

b. What is the possibility that the shares will eventually pass to non-natives and the control of the regional corporation to non-natives?

Answer. At this time I view it as excellent if you are referring to 1991. Currently shares do pass to non-natives through inheritance; however, they become non-voting shares.

c. How can Alaskan natives retain control over regional corporations after 1991?

Answer. Become more aware of the purpose of the corporation.

d. After 1991 do you think Alaskan natives should give preference to the regional corporations in the purchase of their shares?

Answer. No, because you limit his individual choice of marketing his shares.

c. Do you think it would be advisable that at least 51 percent of the shares should be owned by Alaskan natives in the regional corporations?

Answer. If it is their wish—yes. It might cause the corporation to accept non-native Board of Directors which is not currently the policy. This could increase the exposure to established big business management.

Question 9. a. What rights or claims to corporation resources do Alaskan natives' children have that are born after 1973?

Answer. Inheritance of shares.

b. Do you think they should have been provided for? How?

Answer. They are through various programs that are not associated with ANCSA yet guaranteed not to cease just because of the passage of ANCSA.

Question 10. a. How does the regional corporation plan to develop its resources?

Answer. Surface estate resource (*a*) negotiation of surface related contracts with those industries who obtain contracts for extraction of subsurface resources with regional corporation on village owned land, (*b*) gravel—Cook Inlet Region Inc. policy is that gravel is a surface estate, (*c*) long term leasing of land.

Alaska Native Fund—Portion invested in deeds of trust; remainder used for legal and office expense.

b. Will it lease out the land to be developed?

Answer. TNC plans this approach.

c. On what conditions?

Answer. Length of lease. Rent, royalty payments. Methods of monitoring extraction provisions for environmental protection, reclamation, preference in employment. Depends on which industry we are negotiating with.

d. Will it set up joint ventures? If not, why not?

Answer. Conceivable. However, at this point in time Board of Directors very reluctant. Tyonek has history of being on their own and prefer not to enter into joint ventures. They feel there is a possibility of losing control.

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

Answer. Yes, planning to develop the surface estate on our own. Biggest problem is what to do with large tracts of bush real estate.

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil Agreement?

Answer. This pertains to a regional corporation decision concerning surface estate: timber, gravel etc. Yes, I see this as a distinct possibility.

g. How is the regional corporation going to protect itself against the great pressure from non-natives to exploit the non-renewable resources?

Answer. I advocate a "permanent fund" into which a certain percentage (25%) of revenue obtained from the non-renewable resource would be deposited. The interest obtained from this fund would then be made available for purposes as the Board of Directors see fit.

h. What conservation measures has the corporation adopted for renewable resources?

Answer. None, yet.

Question 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

Answer. Approximately $500,000.

b. What have you done with the funds?

Answer. Deposited with local bank at 7¼ percent interest.

c. At what rate have any been invested? Where?

Answer. 12 to 18 percent in deeds of trust.

d. Have you invested any in developing your resources?

Answer. No.

e. If not, do you intend to?

Answer. Not at the present time. As we gain more working capital—yes.

Question 12. a. Are you aware of the financial problems of the state of Alaska?

Answer. Yes.

b. Do you think that these financial problems might affect you?

Answer. Yes.

Question 13. a. Has anyone exerted pressure in you to grant rights-of-way?
Answer. Yes.

b. Do you feel that you should grant rights-of-way at this time?
Answer. Only if it is in TNC's best interest.

Question 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Answer (1) the treatment of former reservation revoked under paragraph 19 of ANCSA. (2) I feel BLM is more attuned to administer and manage lands rather than convey them. This leads to a strict word by word interpretation of ANCSA by BLM and inhibits what I believe was the intent of Congress—a rapid settlement. The implementations is becoming extremely lengthly and costly.

Question 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

Answer. Amendment No. 1: Would like to see village corporations specifically granted easement-free patent to former reservations. TNC is unable to find where ANCSA states that former reservation became "public" contrary to their past usage, as BLM believes they did. ANCSA is sprinkled with statements protecting the valid existing rights of non-natives concerning withdrawal of public lands under ANCSA. What about the valid existing rights of the native on reservations revoked in accordance with paragraph 19 of ANCSA?

The Moquawkie Indian Reservation was private, prior to ANCSA, in accordance with the Corporate Charter of the Native Village of Tyonek (a federal Corporation chartered under the act of June 18, 1934 as amended by the Campsite Indian Reorganization Act for Alaska of May 1, 1936). This policy was supported and protected by the Department of the Interior. Not only are we unable to find where reservations became public lands, we are unable to find the "applicable Laws and Regulations" pertaining to the interim administration of former reservations "covered by Section 19 of the Act.". Frankly, we do not believe there are any.

Amendment No. 2: Extend the "day of reckoning" in 1991 to a date commensurate with the delay BLM and Department of the Interior has caused in issuing patent to the land.

Amendment No. 3: Request that the Alaska Native Fund monies be disbursed on time. I do not believe it has ever been done.

DINEEGA CORPORATION, BOX 1, RUBY, ALASKA 99768

Question 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. The Athabascan people have been a nomdaic group and utilized much of the land in the middle Yukon Region. Summers were spent near the mouth of tributaries to the Yukon and winter was spent mostly hunting and trapping.

a. Do you feel that the land which you will select approximates this amount?
Answer. No.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Yes. Subsistence activities could be greatly disrupted by the manner in which land is selected. Much would depend on who (federal government or state government) selects the land and what use they designate to the land selection.

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. Yes. The D-2 lands and D-1 withheld by the federal government is excessive. If the lands selected by the federal government is left open to subsistence activities, it will have little effect on change in lifestyle; but if subsistence activities are cut off the result would be poverty for many villages.

Question 2. a. How many of the 40 million acres awarded have been selected?

Answer. The village corporation has selected all of the land they are entitled to under Section 14 of ANCSA.

b. Have there been any delay?

Answer. The amount of time given by the federal government to select our lands under Section 14 of ANCSA was far too short. Three years for village corporation land selection and possibly 20–100 years waiting for title from the Department of the Interior. It's unfair.

c. What effect will these delays have on your corporation?

Answer. The only delays we have experienced is from the government. Our land selections have been held up in processing because the government is too slow in carrying out their requirements such as identifying easements. If they were given a time limit like the village corporations they might get something done faster with their expertise.

d. How many acres has your corporation selected to date?

Answer. The delays experience does not help the village corporation because it delays or could create problems with 14(c) of the Act.

e. What percent is this of the total to be selected?

Answer. We have selected our full entitlement, 115,200 acres, granted under ANCSA.

f. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Answer. See sections 12 and 14 of ANCSA.

Question 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

Answer. N/A.

b. Do you think that the regional corporation will postpone leasing or development until after 1991 because of such taxation?

Answer. N/A.

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Answer. N/A.

d. Do you think that after 1991 the regional corporation will be forced to sell land which has been put into production or leased in order to pay land taxes?

Answer. N/A.

e. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Answer. N/A.

Question 4. a. What will be the impact of state lease hold taxes on the development of corporation resources?

Answer. It would be disastrous for our business.

b. Do you intend to impose taxes on resource developers or corporation lands?

Answer. No, we can't tax.

Question 5. a. What impact will land taxes have on village corporations?

Answer. Land taxes would probably be the end of us. Unless we find a way to develop our resources to pay the tax we would be forced to sell our land probably.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. See 5. a.

Question 6. a. Do you think Alaskan natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. No, if Alaskan natives are exempt from income taxes, the whole country should be. It would be unfair to other taxpayers. The exemption from land taxes should be extended especially if the land is undeveloped.

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. Since he is a shareholder in the corporation he himself will not have the burden of paying land taxes.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. Alaskan natives who do own land (not under the corporation) and live outside the cash economy will definitely lose. This should be of little worry presently because most Alaskan natives have no title to their land.

Question 7. a. Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. We did not have treaty rights for hunting and fishing, thus ANCSA did not extinguish them. They were extinguished by the state.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. The effect this will have on those who depend on hunting and fishing depends on the laws the state makes and whether they enforce them.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. If the Alaskan natives sell their stock from the corporations they belong to, the corporation will no longer be native controlled unless other natives bought up the stock. Then the Alaska Native Claims Settlement Act would be over and the U.S. government will have satisfied its responsibility for 20 years. The purpose of ANCSA would be over.

b. What is the possibility that the shares will eventually pass to non-natives and the control of the regional corporation to non-natives?

Answer. Yes.

c. How can Alaskan natives retain control over regional corporations after 1991?

Answer. Extend the date or give the corporations the right to buy back the stock.

d. After 1991 do you think Alaskan natives should give preference to the regional corporations in the purchase of their shares?

Answer. Yes.

e. Do you think it would be advisable that at least 51 percent of the shares should be owned by Alaskan natives in the regional corporations?

Answer. More than 51 percent of the shares should be owned by Alaskan natives. 51 percent is not enough shares to effectively control a corporation.

Question 9. a. What rights or claims to corporation resources do Alaskan natives children have that are born after 1973?

Answer. None. The only rights or claims they will have is if they inherit stock in the corporation or buy it in 1991.

b. Do you think they should have been provided for? How?

Answer. No. It would be a problem to the corporation just to do the paperwork and it would create problems.

Question 10. a. How does the regional corporation plan to develop its resources?

Answer. N/A.

b. Will it lease out the land to be developed?

Answer. N/A.

c. On what conditions?

Length of lease, rent, royalty payments, methods of monitoring extraction, provisions for environmental protection, reclamation, preference in employment.

Answer. N/A.

d. Will it set up joint ventures? If not, why not?

Answer. N/A.

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

Answer. N/A.

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil Agreement?

Answer. N/A.

g. How is the regional corporation going to protect itself against the great pressure from non-natives to exploit the non-renewable resources?

Answer. N/A.

h. What conservation measures has the corporation adopted for renewable resources?

Answer. N/A.

Question 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

b. What have you done with the funds?

Answer. We have done nothing except left our funds to draw interest in short term investments.

c. At what rate have any been invested? Where?

Answer. The rate varies from month to month.

d. Have you invested any in developing your resources?

Answer. No.

e. If not, do you intend to?

Answer. Yes.

Question 12. a. Are you aware of the financial problems of the state of Alaska?

Answer. They never seem to have enough money.

b. Do you think that these financial problems might affect you?

Answer. The state's financial problem will definitely affect us as citizens and business. We could be taxed to death or not develop our resources.

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

Answer. Yes. The BLM is exerting pressure on us for right of ways, many of which are unreasonable.

b. Do you feel that you should grant rights-of-way at this time?

Answer. We are protesting any easement which we feel is not in keeping with ANCSA or is unreasonable. Many of the easements do not reflect sound planning or land use. The easements proposed have solved no problems but has certainly created problems.

Question. 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Answer. Many of the problems we face are with government agencies; BLM is the main one. Also we lack qualified personnel for the day to day management of our corporation.

Question. 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

Answer. We believe that the corporations under ANCSA should be protected from losing stockholders who are natives. There should be protections against liens, stock going into escheat and transferring of stock. The land should not be taxed if it's not developed.

BERING STRAITS NATIVE CORPORATION, BOX 1008—NOME, ALASKA

Question 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. Nearly all the usable land by crossing, criss crossing looking for game, fish, caribou and trading.

a. Do you feel that the land which you will select approximates this amount?

Answer. No.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Our selection will not effect it, but selection by Interior for park lands will definitely disrupt some of the villages.

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. Yes, Shishmeref Area. They have been really hamstrung, this village with park selection.

Question 2. a. How many of the 40 million acres awarded have been selected?

Answer. As much as were allowed by law.

b. Has there been any delay?

Answer. Yes.

c. What effect will these delays have on your corporation?

Answer. BLM is slow in giving conveyance. We met our obligation by deadline date.

d. How many acres has your corporation selected to date?

Answer. It is hard to plan or start any mineral program without patent.

e. What percent is this of the total to be selected?

Answer. All that were allowed.

f. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Answer. All except 14h.

Question 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

Answer. We are hoping that undeveloped land will not be taxed; therefore, what is developed will be built in tax money.

b. Do you think that the regional corporation will postpone leasing or development until after 1991 because of such taxation?

Answer. I hope that state and federal come up with some guidelines that can be worked with; I think there is enough delay already.

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Answer. It looks like this is what the federal government wants—to get the land back.

d. Do you think that after 1991 the regional corporation will be forced to sell land which has been put into production or leased in order to pay land taxes?

Answer. If we do not get a voice in policy, this will happen. Our helper, Interior Dept., seems to be looking the other direction.

c. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Answer. Yes, the population will grow so much that the state will not have enough revenue.

Question 4. a. What will be the impact of state lease hold taxes on the development of corporation resources?

Answer. At this time, it is hard to say, but if present governor still has his tax whim, then it could be bad.

d. Do you intend to impose taxes on resource developers or corporation lands?

Answer. This seems to be a question to state or federal. We may want to lease land, but we are unaware we can tax.

Question 5. a. What impact will land taxes have on village corporations?

Answer. All taxes are hard on undeveloped villages.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. I hope not, but look like this is what state and BLM want.

Question 6. a. Do you think Alaskan natives should be exempt from income taxes?
Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. I think Alaska natives pay their share of taxes for they know no loop holes. I think there should be no taxes on undeveloped land.

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. Can't, then the state and federal will take his land away, as they have done to the Indians.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. Yes, unless there is some protection built in.

Question 7. a. Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. Yes. But at the rate they are settling with the natives it may be 50 years before they do.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. It will increase the welfare rolls if they put on strong unnecessary laws.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. I hope that native corporations have a good going program by then so the natives will not want to sell.

b. What is the possibility that the shares will eventually pass to non-natives and the control of the regional corporation to non-natives?

Answer. Although certain amount of share passes to non-natives, I think the natives will still have the corporations.

c. How can Alaskan natives retain control over regional corporations after 1991?

Answer. By legislation. Hard work a good profitable corporation could be built up by 1991.

d. After 1991 do you think Alaskan natives should give preference to the regional corporations in the purchase of their shares?

Answer. Yes.

e. Do you think it would be advisable that at least 51 percent of the shares should be owned by Alaskan natives in the regional corporations?

Answer. Yes, otherwise we will lose all that we worked for; would be about 80 percent.

Question. 9. a. What rights or claims to corporation resources do Alaskan natives children have that are born after 1973?

Answer. I feel that majority will inherit shares from the parents, brothers, or sisters. They are like silent partner.

b. Do you think they should have been provided for? How?

Answer. No, there is enough red tape already.

Question. 10. a. How does the regional corporation plan to develop its resources?

Answer. On wait and see basis, we do not even know what resources we have yet.

b. Will it lease out the land to be developed?

Answer. This would have to be worked out with village corporation and do what is best.

c. On what conditions? Length of lease, rent, royalty payments, methods of monitoring extraction, provisions for environmental protection, reclamation, preference in employment.

Answer. It would have to be a combination determining which is best for all regions concerned.

d. Will it set up joint ventures? If not, why not?

Answer. No doubt there will be some joint venutre to get good management, financing expertise.

Question. 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

Answer. Less than $400.

b. What have you done with the funds?

Answer. Put in savings.

c. At what rate have any been invested? Where?

Answer. $92–97–78. Miner and Merchant Bank.

d. Have you invested any in developing your resources?

Answer. No.

e. If not, do you intend to?

Answer. Yes.

Question 12. a. Are you aware of the financial problems of the state of Alaska?

Answer. Yes.

b. Do you think that these financial problems might affect you?

Answer. Yes.

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

Answer. No, but BLM has been putting ad in papers contrary to the ANCSA Act.

b. Do you feel that you should grant rights-of-way at this time?

Answer. Yes, on as needed basis.

Question 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Answer. Mainly easement, coastal zone. Park selection D-2.

Question 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

Answer. If the Commission has any power. If they have no powers then it's just a waste of time and money. Interior will do as they please anyway.

SITNASUAK NATIVE CORPORATION, BOX 905

Question 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan Natives in your Region (or Village)?

Answer. The total acreage within our Village withdrawal is 480,462 acres; however, the traditional use and occupancy of the land far exceeds this acreage because the accessible game resources do not concentrate specifically in this vicinity. Many hunters hunt, trap, and fish along the Sinuk River, and for more than 70 miles along the coastline, up major rivers, along Salmon Lake, the Solomon and King Island withdrawal areas, and areas accessible by foot and dog team and most recently, snowmachines and cars. The season of the year and the best subsistence lands bring hunters much further. Reindeer, squirrels, and ducks are not boundary conscious.

a. Do you feel that the land which you will select approximates this amount?

Answer. Definitely not. Our stockholder enrollment numbers approximately 2,060. Our entitlement of land based on our enrollment of eligible Natives is 161,289 acres. The per capita distribution based on the amount of land allocated under ANCSA is 78.29 acres per person. A large percentage of the stockholders enrolled to Nome reside in other cities and many outlying villages. The population of Nome is estimated at approximately 3,000 people consisting of Native stockholders, nonstockholders, and non-Natives. The number is expected to grow due to the renewed mining interest and construction projects. There already has been a marked growth in residents as is evidenced by the lack of available housing, and the rising cost of living.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Yes, any type of activity will have a significant impact on compatible land uses. The passage of the Act and eventual selection of our land entitlement made people aware of the boundaries; however, the subsistence way of life continues, though not as much in the Nome area, because of the growing dependency on canned goods and the monetary economy as opposed to the traditional dependency on the land resources to supplement the family income. Our land selection boundaries go only so far; the location of the D–1 and D–2 lands and what will eventually result from decisions on these lands will have a definite impact, i.e., on D–2 lands. Many people still depend on them for subsistence and should there be a policy that would prohibit or hinder the subsistence activities, the growing dependency on the money economy will make a big impact. Should the D–1 lands become available to miners and homesteaders, the future land owners and users will become even more boundary conscious and protective of what lands they have. This will lead to enforcing of boundary rights and possibilities of enforcing trespass proceedings. The people, especially in a larger community, will think twice before venturing onto lands outside and inside of the lands selected by the corporations.

c. Do you feel that the U.S. Government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. Yes. The choice lands that were unselectable by the Village Corporation, will be tied up in national parks and a sizable chunk had been leased to oil companies. A section in the Land Claims Act makes certain that a maximum of 25 townships surrounding the Village be withdrawn for selection by the Village Corporation and only a certain entitlement depending on the Native enrollment of the Village be selected.

Question 2. a. How many of the 40 million acres awarded have been selected?

Answer. This is an almost impossible question to answer, primarily because the Village Corporations have overselected at least 3 to 5 times their entitlement under the Land Claims Act. Out of the 375 million acres in the entire state, 103 million will go to the state, 80 million acres to the federal Government for possible inclusion in the four federal systems, and only 40 million to the Native Groups. It will be many years before we will know who owns what and what the land status will be.

b. Has there been any delay?

Answer. There is considerable delay. The deadline for the submission of our final Village selection application was December 18, 1974 and we still have not been issued title. The delays in receiving title from the U.S. Government are based on numerous reasons. One being the tremendous work load that the Bureau of Land Management has in adjudicating and processing the many applications for land from the Village and Regional Corporations. Their lack of adequate staff to concentrate on the applications plus their limited budget are other reasons. The non-finalization of the easement and navigability criteria have been the biggest delays thus far; the survey of Village exterior boundaries will take some time. The unclear land status, i.e., unpatented mining claims and the status of pending Native allotments, are other reasons.

c. What effect will these delays have on your Corporation?

Answer. The effect of these delays on our Corporation are as follows: Without our "paper title" we are not able to develop our lands. The jurisdiction of managing the land is still in the hands of the government. During the time between the selection of land and the actual receipt of patent, a great portion of the money settlement will devaluate. This money will be needed to protect the land, should the property taxes reach tremendous heights. The long range planning for development of the lands is hindered because we do not know which lands we will be receiving.

Question 2. d. How many acres has your Corporation selected to date?

Answer. We have selected approximately 447,150 acres out of 480,462 acres.

e. What percent is this of the total to be selected?

Answer. Our total selection entitlement is 161,280 acres 12(a); 51,200 acres 12(b) for a total of 212,480 acres. We have made an over-selection of 234,670 acres.

f. Do you have any problem of non-Natives being awarded land or occupying land that should be open for selection by the Corporation?

Answer. Yes, the land surrounding Nome has been overrun by prospectors and miners as in the days of the Gold Rush. Over 33,000 acres of prime land, which had been traditionally and historically occupied by the Natives of Nome have been patented to miners from all over the country. Another 16,000 acres is covered by unpatented mining claims which are protected under a certain section of the Land Claims Act until December 18, 1976. We have problems with squatters, but under our present leasing policy, have resolved the problem temporarily.

Question 3. a. What will be the impact of land taxes on the development or of land by the Regional Corporations?

Answer. The impact at this point, is undetermined. Since the corporation lands are exempt from taxation until 1991 or until leased or developed, we do not have any indication what they will be. The state's financial situation from the cost of the Pipeline Construction and the growing population of people in Alaska may require a tax boost.

b. Do you think that the Regional Corporation will postpone leasing or development until after 1991 to avoid such taxation?

Answer. No. If the Regional Corporations would like to enter into development of available resources, it is possible to enter into a joint agreement and have the tax liabilities be the responsibility of the other party who will also benefit from the resources. Development that will provide jobs for local individuals from the villages and that will yield profit would be desirable.

c. Do you think that after 1991, the Regional Corporation will be forced to lease land instead of developing it themselves in order to pay land taxes? Reserve taxes?

Answer. No. Between 1976 and 1991, we should have conducted research into various means of protecting our lands. We will have to get an appraisal and value of the lands before actual development is to occur. Development and its impact vs. taxes must be weighed before development is to take place. In the long run, the social and environmental impact in addition to the real property taxes may be detrimental. It is possible that in order to avoid the taxes a non-profit corporation be formed, or the land could be held in trust.

d. Do you think that after 1991, the Regional Corporation will be forced to sell land which has not been put into production or leased in order to pay land taxes?

Answer. No. Regardless of whether land is leased or developed, taxes are inevitable. The Land Claims Act states that the lands are exempt from taxation until 1991 or until leased or developed. If the land is put into production, the Regional Corporation would have to be quite positive of its potential and prospects for profits before engaging in development. The Regional Corporation's stockholders have stressed many times that the land should remain with the stockholders and not be sold. The land that is developed or leased to third party individuals could contain the stipulation that the lessee would be liable for all real property taxes incurred during the duration of the lease agreement.

e. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive State tax burden?

Answer. Due to the monetary situation of the state of Alaska, they could not exert enough authority to control the lands withdrawn for national parks and oil reserves without taxing other lands for additional financing.

Question 4. a. What will be the impact of State lease hold taxes on the development of Corporation resources?

Answer. This is somewhat difficult to answer since this has not happened yet. If the taxes are too high, it is possible that the development of the resources will have a low priority and the corporations could invest in other profit making ventures.

b. Do you intend to impose taxes on resources developers or Corporation lands?

Answer. It would depend on what type of development would take place. If necessary, this wouldn't be such a bad idea. This would bring in additional financing to pay the land taxes if they do come about, because of development.

Question 5. a. What impact will land taxes have on Village Corporations?

Answer. The impact of land taxes on the smaller Village Corporations may be detrimental, because they do not have as much money as the larger corporation having more money. However, it will also depend on what resources are available on village lands, how much they are worth, and their potential to generate income necessary for the protection of the land from property taxes.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. This should not be necessary, because different alternatives are available. The majority of the stockholders depend on the subsistence lands and without this, the identity and heritage would be lost. As mentioned before, a non-profit organization could be established.

Question 6. a. Do you think Alaskan Natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why? Exemption for undeveloped land?

Answer. Alaska Natives are citizens of the state, and are not in a special category. We have paid income taxes like anyone else and there is no specific reason why we shouldn't. If there was an exemption, it would be beneficial to many of the people who make a lot of money.

The extension of the tax-exempt status of the Native lands would be excellent, if it is possible. Many people already feel that we have more money and more land than we need. Considering the 40 million acres we will receive under the Land Claims Act as contrasted with the 375 million in the entire state (which was ours by aboriginal title) we should not pay taxes at all. The land in Alaska, much of its prime land that we still depend on, is taken by the state and federal government.

The American government has gotten a lot of money from the lands taken away from the Indians of the lower 48, and the state and federal government will probably grow rich from Alaska resources, while the Natives will be faced with property taxes on what little land was allocated. We were compensated for the lands taken away from us, but the money settlement devaluates while the value of the land grow. The more the land is worth, the higher the property taxes will be. We will have to depend on what land we received and it would be a tragedy to lose it. We should never have to pay taxes on the land; the step we took in giving up our aboriginal title and rights to the land is far too high of a price to pay.

b. How will an Alaskan Native living outside the cash economy, pay his land taxes?

Answer. It is evident that the single Alaskan Native that does live outside of the tax economy would not be able to pay the land taxes if they are too high. In this case, it should be the responsibility of the Village or Regional Corporations to establish a non-profit organization or to look into alternatives of helping the individual hold onto the land. A community trust could be established where, if the land is to be sold, the land would go to another Native.

c. Do you think it is possible that those Alaskan Natives living outside the cash economy might eventually lose their land through foreclosure of land taxes?

Answer. Yes, it is very possible. If this is the case, the Native may be forced to go to work to keep his land. If he is to lose it, there should be some protection or some way to have the Regional Corporation be the first to purchase the land.

Question 7. *a.* Do you realize that Alaskan Native Claims Settlement Act extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with State and Federal laws?

Answer. Yes. However, this will not stop subsistence hunters from hunting in other lands, as they always have.

b. What effect will this have on those who depend on huning and fishing for a living?

Answer. This will have a very detrimental impact. The welfare rolls would rise to unimaginable heights. The majority of the people who reside in the village depend on the land for a substantial amount of their income and food supply.

c. Position of D–2 lands—are they necessary for subsistence?

Answer. All lands around the villages are vital for subsistence. That is the reason why the village was there in the first place. The D–2 lands were not in existence when hunting first began.

Question 8. *a.* When Alaskan Natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. There will be some Natives who will sell their stock for anything and some who would give their right arm before selling. In the future, the Regional Corporation could establish a policy for a first right of refusal to buy stock.

b. What is the possibility that the shares will eventually pass to non-Natives and the control of the Regional Corporation to non-Natives?

Answer. It is possible. However, it would take a great number of years. The policies established by the Regional and Village Corporation concerning stock will determine who will control in the future. The majority of the control will always be in control of the Natives.

c. How can Alaskan Natives retain control over Regional Corporations after 1991?

Answer. By making it mandatory that the stock, if it is sold, should be sold first to the Regional Corporation. The stockholders have a vote on who will become a member of the Board of Directors. This is where the control lies.

d. After 1991, do you think Alaskan Natives should give preference to the Regional Corporations in the purchase of their shares?

Answer. Definitely.

e. Do you think it should be advisable that at least 51% of the shares should be owned by Alaskan Natives in the Regional Corporations?

Answer. There is no question. They will.

Question 9. a. What rights or claims to Corporation resources do Alaskan Natives children have that are born after 1973?

Answer. They have the right to inherit stock.

b. Do you think they should have been provided for? How?

Answer. Yes. The stock should be terminated upon death of a stockholder, and the children born after 1971 should become automatic members.

Question 10. a. How does the Regional Corporation plan to develop its resources?

Answer. It would depend on what resources are available. If there's oil, they would most likely develop that; the same with other resources.

b. Will it lease out the land to be developed?

Answer. Probably. There is much potential on our lands.

c. On what conditions? Length of lease, rent, royalty payments; methods of monitoring extraction and provisions for environmental protection, reclamation, preference in employment?

Answer. The stipulations within the lease should: protect the land and have the lessee liable for the property taxes; a fee to be paid; restrictions to protect the land; making the lease subject to termination if the terms are not complied with. The lessees would hold the lessor harmless for any injuries or death that occur on the premises of the leased lands. Safety regulations would have to be complied with. The land should not be subject to waste or subleased. State statutes would have to be complied with. Environmental impact will be a definite consideration. Preference in employment, especially on village land, should be given to the village stockholders.

d. Will it set up joint ventures? If not, why not?

Answer. Yes.

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

Answer. Not necessarily. The resources or the development of resources would stimulate the economy and provide much needed jobs and experience. The biggest problems in development would be the taxes, impact on the compatible resources and land uses. The subsistence lands could be jeopardized, an outsider could come in and disrupt the village lifestyle. Nonrenewable resources cannot be brought back. Environmental impact is always a concern.

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil Agreement?

Answer. Possibly.

g. How is the Regional Corporation going to protect itself against the great pressure from non-Natives to exploit the non-renewable resources?

Answer. By careful deliberation and recognizing the problems before they begin. The impacts should be weighed.

h. What conservation measures has the Corporation adopted for renewable resources?

Answer. Restoration of the land to its original condition.

Question 11. a. How much have you received in cash from Alaskan Native Claims Settlement Act to date?

Answer. Undetermined.

b. What have you done with the funds?

Answer. Invested both locally and outside of the Village. Organize an office; salaries; administrative expense; study of resources; attorneys; paid dividends.

c. At what rate have any been invested? Where?

Answer. 7 percent. The local Credit Union, which was established by the Regional Corporation.

d. Have you invested any in developing your resources?

Answer. Gravel.

e. If not, do you intend to?

Answer. Yes.

Question 12. a. Are you aware of the financial problems of the State of Alaska?

Answer Yes.

b. Do you think that these financial problems might affect you?

Answer. Yes.

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

Answer. Yes, there have been numerous recommendations for easement reservations. In a sense, the Bureau of Land Management's method of requesting for easement, their justification, width, and advertising in newspapers for recommendations is educating the public in means of obtaining control of Native lands through the use of easements. Many have taken advantage of the opportunity as evidenced by the numerous requests for them.

Sportsmen's groups have formed the Alaska Public Easements Defense Fund and have tried to stop the government from conveying title to Native lands until everyone is provided with "a full right of access."

b. Do you feel that you should grant rights-of-way at this time?

Answer. No. No rights-of-way should be granted until the easement recommendations are justified. In the first easement hearings that were conducted by the Bureau of Land Management, they presented easement recommendations that were based on unfinalized guidelines. Many of the easements were speculative, unnecessary, illegal and inequitable. Now that the easement guidelines are finalized, they are unacceptable. Our lands are private and should be treated as private lands.

Question 14. Do you want to mention any problem in the implementation of the Alaskan Native Claims Settlement Act?

Answer. The problems are numerous, it would take a considerable amount of time to list them. Briefly: The fact that we do not have title. Problems with easements; unpatented mining claims; unclear land status. Many decisions of the Land Claims Act being decided by people who are not affected by the decisions; unfinalization of the navigability question; outsiders trying to control Native lands before title is conveyed; interpretation of legal questions and sections of the Act; concern with management of D-2 lands; property taxes; devaluation of money settlement; problems with reconveyance; Secretary of Interior's authority on many issues; possibility of resources exploitation on lands outside of Village lands; problems that can be expected on the 70-30% split of subsurface resources when developed.

Question 15. Would you like the Commission report to mention any amendments to the Alaskan Native Claims Settlement Act? Explain in detail.

Answer. The Omnibus Act passed recently took care of the major amendments. If there is to be any changes it should be the extension of deadlines for important issues that need careful deliberation. The federal-state Land Use Planning Commission should remain for a long time, with change in policy if necessary, and with a majority of local input.

DOYON, LIMITED, FIRST & HALL STREETS, FAIRBANKS, ALASKA, WILLIAM H. TIMME, GENERAL COUNSEL

Question 1. Could you estimate how many acres have been traditionally used or occupied by Alaskan natives in your region (or village)?

Answer. The Athabascan people of the interior were nomadic prior to the arrival of compulsory education. They basically hunted the entire region now constituting Doyon, although by and large their activities in summer months were related to the river systems and surrounding lands.

a. Do you feel that the land which you will select approximates this amount?

Answer. No.

b. Will traditional subsistence activities be disrupted by the amount and the manner in which the land will be selected? How?

Answer. Yes. In many villages the only land to which they will be guaranteed access is that owned by the corporations. This is only a fraction of the land presently being utilized. People today travel 40 to 100 miles for fall hunting but under ANCSA the land ownership patterns are limited to the 25 townships immediately around the villages.

c. Do you feel that the U.S. government withheld excessive amounts of land from selection for the national parks and oil reserves?

Answer. The critical factor is whether the land will be opened for traditional subsistence hunting and fishing. The D-2 proposals, if sufficient protection is afforded these activities, will insure that the land is not developed and the people have a chance to preserve their traditional life style. Then D-2 proposals so far only give token support to subsistence activities. This right cannot be left to the whim of the local administrator but must be written into the legislation.

Question 2. a. How man of the 40 million acres awarded have been selected?

Answer. Applications have been filed on virtually all except for a portion of the 2 million acres under Section 14.

b. Do you feel the progress in selection has been too slow?

Answer. The selection time frame has been far too short.

c. What has caused the delays?

Answer. The delays which have been experineced are due to the failure of the Department to promptly carry out its requirements in terms of promulgating regulations, processing applications, and identifying easements required by the Act.

d. What effect will these delays have on your corporation?

Answer. We have entered into exploration agreements under which we are often required to have title in order to drill wells, etc. By not being able to get certain identifiable applications expedited, we lose time and information, and, ultimately, we may lose money.

e. How many acres has your corporation selected to date?

Answer. We have selected our full entitlement (to the extent anyone knows what it is) and an overselection. We have yet to file applications on groups, cemetery and historical sites, and Section 14(h)(8) lands. These are due in June.

f. What percent is this of the total to be selected?

Answer. All of the major selections under Section 12.

g. Do you have any problem of non-natives being awarded land or occupying land that should be open for selection by the corporation?

Answer. No, we are required to recognize valid and existing rights.

Question 3. a. What will be the impact of land taxes on the development or leasing of land by the regional corporations?

Answer. At the present, none. Since there are no statewide property taxes. But should there be and if it is before 1991, the impact should be minimal.

b. Do you think that the regional corporation will postpone leasing or development until after 1991 because of such taxation?

Answer. No, it cannot afford to do so because of the 1991 alienation of stock deadline. A viable corporation must be functioning by that time, resources committed to development to the extent it doesn't conflict with traditional values.

c. Do you think that after 1991 the regional corporation will be forced to lease land instead of developing it themselves in order to pay land taxes?

Answer. No, the decision to lease or to self-develop should and, in Doyon, will be made in terms of the economics of development and the expertise available. A land tax compared to the total tax structure should not influence this decision.

d. Do you think that after 1991 the regional corporation will be forced to sell land which has not been put into production or leased in order to pay land taxes?

Answer. Question ambiguous. Land not in production after 1991 will or can be taxed. If it has no economic value and if the corporation cannot afford to pay the taxes, it will have to be sold. Land in production should be generating enough income to meet its own tax burden.

e. Given that so much Alaskan land has been withdrawn for national parks and oil reserves, do you think that the remaining land will bear an excessive state tax burden?

Answer. In Alaska, given our legislature, it is possible, although through the income generated from state land there should be no need for an increased property tax because of federally held land.

Question 4. a. What will be the impact of state lease hold taxes on the development of corporation resources?

Answer. Disastrous. For the past two years, we have been fighting these taxes. In most states the large number of private landowners make it politically unwise to engage in such taxing policies. But in Alaska, where the natives are the landowners, the numbers aren't sufficient to mediate the taxing tendencies of the legislature.

b. Do you intend to impose taxes on resource developers or corporation lands?

Answer. No, we do not have taxing powers. The people of the region, however, should explore the possibility of borough government in order to tax the development to provide for the social services needed.

Question 5. a. What impact will land taxes have on village corporations?

Answer. Disastrous. The villages are the most in need of their land and the least equipped to meet their tax burden. By definition, their land, if it is to be used in a traditional manner, cannot be developed but yet it must be developed if sufficient income is to be generated to pay the taxes. The villages are even more "land poor" than the regions.

b. Will they be forced to sell land after 1991 to pay land taxes?

Answer. Probably so.

Question 6. a. Do you think Alaskan natives should be exempt from income taxes? Why? Should the exemption from land taxes be extended? For how long? Why?

Answer. No. Exemption from income taxation would give a false sense of economic security. The regions are going to be large businesses and should be required to pay their share of governmental costs. As to land taxes, there should be exemption for large undeveloped tracts of land. This can be done through a tax credit for not developing, a portion of which would have to be repaid if the land is sold or developed later. It is unsound land use planning to tax such land holdings, for it forces the sale of land and a multitude of less desirable uses only to generate money to meet the tax burden.

b. How will an Alaskan native living outside the cash economy pay his land taxes?

Answer. He will have no tax burden to speak of since the land will not be distributed on a per capita basis.

c. Do you think it is possible that those Alaskan natives living outside the cash economy might eventually lose their land through foreclosure for land taxes?

Answer. Not applicable—see answer to b.

Question 7. a. Do you realize that ANCSA extinguished your hunting and fishing rights and that all hunting and fishing rights must be in compliance with state and federal laws?

Answer. ANCSA did not extinguish them. They were extinguished by the Statehood Act. Alaskan Natives did not have treaty rights for hunting and fishing.

b. What effect will this have on those who depend on hunting and fishing for a living?

Answer. Obviously, they have to comply with state law or risk the penalty for violating it. We are presently funding the defense of a criminal case which involves the taking of a moose out of season for a traditional burial potlatch.

Question 8. a. When Alaskan natives are allowed to sell their shares in 1991, what do you think will happen?

Answer. The natives lose control of the corporations to outside businesses, which will exploit the land at the lowest cost to maximize their return. The ballgame is over.

b. Do you think that it is probable that the shares will eventually pass to nonnatives and the control of the regional corporation to non-natives?

Answer. Definitely.

c. How can Alaskan natives control over regional corporations after 1991?

Answer. Amend ANCSA to extend the date. There will probably need to be some buy-out provision for shareholders who wish not to be shareholders, but this is a very complex problem in light of the high book value of the stock and the small amount of liquid assets of the corporations.

d. After 1991 do you think Alaskan natives should give preference to the regional corporations in the purchase of their shares?

Answer. Yes.

e. Do you think it would be advisable that at least 51 percent of the shares should be owned by Alaskan natives in the regional corporations?

Answer. Given the realities of cumulative voting and non-participation, 51 percent native ownership is far too little for native control.

f. How does the regional corporation plan to develop its resources?

Answer. It varies with the regions. Doyon, having deficiency lands away from villages, plans to develop those lands in the manner so as to maximize the return to Doyon. The resource potential must be developed for two reasons: first, it makes it more difficult for a take over if the corporation is viable and functioning and the resources being developed. Secondly, if an individual does sell his stock, he should get a higher price for it.

Question 9. a. What rights or claims to corporation resources do Alaskan natives' children have that are born after 1973?

Answer. None—All shareholders of the corporation must have been living on December 17, 1971, or have inherited their stock.

b. Do you think they should have been provided for now?

Answer. No—a continuous enrollment process would have been an insurmountable problem in light of the corporate structure.

Question 10. a. How does the regional corporation plan to develop its resources?

Answer. See answer to 8f.

b. Will it lease out the land to be developed?

Answer. Some land will be leased; other land will be developed solely by the region; still other resources will be leased to a Joint-Venture made up of the region and another party. It will turn on the economics, the risk involved, and the sharing provisions of Section 7(i).

c. On what conditions? Length of lease; rent, royalty payments; methods of monitoring extraction; provisions for environmental protection, reclamation, preference in employment?

Answer. All Doyon resource agreements include the following requirements:

(1) get on the land, work it hard, go to production or get off;

(2) rents and royalties are viewed in conjunction with the work required and the acreage and the market;

(3) strict environmental safeguards;

(4) Native hire;

(5) rights of first refusal on all contracts let by the lessee.

d. Will it set up joint ventures? If not, why not?

Answer. Yes, both for the development and for the performance of contracts received under the rights of first refusal when it appears in the best interests of the corporation and its shareholders to do so.

e. Is it thinking of developing the resources itself? If not, why not? If so, what are the biggest problems in developing the resources?

Answer. Yes. The greatest problem is cash. Doyon in total will receive $60 million. One asbestos mine and mill will cost in excess of $100 million. A pipeline from the Kandik oil basin (which we are developing) will cost $1 billion (at today's prices); an oil well costs $5 million to drill if you already have an oil company. Even with leveraging, we will soon run out of money. This is all predicated on a rational resolution of Section 7(i) which would allow us to recoup our expenses as well as obtain a return on our investment before we have to pay out 78% of all revenues to the other regions and our villages and at-large shareholders. A second problem is whether there is a resource to develop and the cost of doing the exploration to find this out. The exploration costs may be very great and may only prove that the resource is not economically feasible to develop.

f. Would it consider contracting out the development of resources such as in the Blackfeet-Damson Oil agreement?

Answer. We are not familiar with the Blackfeet-Damson Oil agreement.

g. How is the regional corporation going to protect itself against the great pressure from non-natives to exploit the non-renewable resources?

Answer. The regional corporation is run by a board elected by the native shareholders. The board members like to serve and, thus, if they take actions contrary to the wishes of their constituents, they will not be given that opportunity.

h. What conservation measures has the corporation adopted for renewable resources?

Answer. Doyon does not have any renewable resources which it is developing. Timber (which is not being developed) in some areas may be considered to be a renewable resource, but in our region the turn-around time on a tree suitable for harvest is 120 to 150 years.

Question 11. a. How much have you received in cash from ANCSA to date?

Answer. The region has received approximately $30 million of which $15 million went to Doyon, the balance to the village corporations and at-large shareholders. See attached annual report.

b. What have you done with the funds?

Answer. They are basically being invested in short-term paper. However, we have constructed an office building, set up a surveying company, participated in a Native-owned bank in Anchorage, and participated in several joint ventures.

c. At what rate have any been invested? Where?

Funds are invested in a pooled trust type of account in basically short-term government and high grade agency paper. The rate varies with the market. Alaska National Bank and Morgan Guaranty are handling the investments.

d. Have you invested any in developing your resources?

Other than negotiating the agreements and the land selection expenses, No.

e. If not, do you intend to?

Answer. Yes, but it will be a resource by resource decision.

Question 12. a. Are you aware of the financial problems of the State of Alaska?

Answer. What are the "financial problems" of the State of Alaska? The new reserve in place tax was to generate sufficient revenue to cover the short fall in income until the royalty oil began to flow. The problems of Alaska are more in terms of the use of the funds and not the lack of them. The current oil tax flap arises not from a need of tax funds but a desire for a larger slice of the pie.

b. Do you think that these financial problems might affect you?

Answer. As citizens of the State, its financial problems affect us. If taxes are increased, it makes it less profitable for us to do business. If, for instance, one section of the community (oil companies) are taxed irrationally then they will not seek to spend their dollars in the state and on our lands.

Question 13. a. Has anyone exerted pressure on you to grant rights-of-way?

Answer. Yes—the Bureau of Land Management. The whole easement policy of the Department is one which creates serious problems for the corporations and is far in excess of what Congress intended.

b. Do you feel that you should grant rights-of-way at this time?

Answer. We are presently contesting any easement reservation which we believe to be in violation of ANCSA. But it is ridiculous that we have to waste our time and money doing so when it is the fault of Interior.

Question 14. Do you want to mention any problem in the implementation of the ANCSA?

Answer. There are several problems. Doyon over the past years has spent thousands and thousands of dollars and, more importantly, a great deal of time and effort which could and should have been directed in other areas fighting the Department to have them implement the Act as Congress intended. The Department has not changed its attitude. In the past it was said that the Department held the land in trust for the Indian peoples, and we all know what that really meant. Today, it can be said and quite correctly, the Natives of Alaska hold their land in trust for the Department and the non-Natives.

We are constantly fighting the problem of getting critical conveyances expedited; fighting easements for campsites, pipelines, roads and all sorts of other purposes which were not contemplated by the Act and for which any other private landowner would be compensated.

We have spent money trying to resolve our problems with the other agencies as well. Witness the difficulties with the S.E.C. We have a private revenue ruling request before the IRS dealing with the most obvious, but IRS has refused to agree and for that matter has refused to answer it for the past two years.

Question 15. Would you like the Commission report to mention any amendments to the ANCSA? Explain in detail.

Answer. A review of the 1991 transferability of the stock with the goal of structuring a mechanism whereby the Native people will be assured of their continued control after that date.

The exemption from taxation of undeveloped land held by the corporations.

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